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General and complete disarmament: transparency in armaments

Continuing operation of the United Nations Register of Conventional Arms and its further development

Note by the Secretary-General**

1. By its resolutions 52/38 R of 9 December 1997, 53/77 V of 4 December 1998 and 54/54 O of 1 December 1999, the General Assembly requested the Secretary-General to prepare a report, with the assistance of a group of governmental experts, on the continuing operation of the Register of Conventional Arms and its further development, taking into account the work of the Conference on Disarmament, the views expressed by Member States and the reports of the Secretary-General on the continuing operation of the Register and its further development (A/52/316, A/49/316), with a view to a decision by the Assembly at its fifty-fifth session.

2. Pursuant to those resolutions, the Secretary-General has the honour to submit to the General Assembly the above-mentioned report, prepared with the assistance of the Group of Governmental Experts, on the continuing operation of the United Nations Register of Conventional Arms and its further development.

* A/55/150.
** Finalization of this report was dependent on the completion of work by the Group of Governmental Experts, which held its third and final session from 24 July to 4 August 2000.

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Report on the continuing operation of the United Nations Register of Conventional Arms and its further development

Contents

		Paragraphs	Page
	Forward by the Secretary-General		4
	Letter of transmittal		6
I.	Introduction	1–20	9
	A. Establishment of the Register	1–4	9
	B. Developments since 1991	5–20	10
II.	Review of the operation of the Register	21–47	13
	A. General	21	13
	B. Extent of participation	22–34	14
	C. Reports on exports and imports	35–36	18
	D. Reports on additional background information	37	19
	E. Assessment of reporting	38–47	20
III.	Development of the Register	48–60	22
	A. General	48–49	22
	B. Categories of weapons covered by the Register	50–57	23
	C. Expansion of the scope of the Register	58–60	24
IV.	Regional aspects	61–76	25
	A. Overview	61–62	25
	B. Support of the Register through regional arrangements and agencies	63–74	25
	C. Enhancing implementation at the regional level	75–76	28
V.	Implementation of the Register	77–83	29
	A. Reporting methods	77	29
	B. Contacts among Member States	78	29
	C. Access to data and information reported	79	29
	D. Role of the United Nations Secretariat	80–82	30
	E. Future review of the Register	83	30
VI.	Conclusions and recommendations	84–94	30
	A. Conclusions	84–93	30
	B. Recommendations	94	32

Appendices

I. Categories of equipment and their definitions 36

II. Reporting forms 38

Annexes

I. Standardized form for reporting international transfers of conventional arms (exports) 38

II. Standardized form for reporting international transfers of conventional arms (imports) 40

Foreword by the Secretary-General

When it was first established in 1992, the United Nations Register of Conventional Arms was recognized as an important step forward in international efforts to promote openness and transparency in military matters. Today, as part of a range of international instruments, the Register plays an important part in helping to prevent an excessive and destabilizing accumulation of arms and provides valuable data for bilateral and regional dialogues on security concerns.

In our rapidly globalizing world, security can no longer be pursued in isolation. We must strive to apply as much transparency as possible to matters related to defence policies and armaments. In this way, we can help minimize the risk of misunderstanding or miscalculation, and thereby contribute to greater trust and more stable relations among States. In this context, I welcome this unanimously adopted report by the 2000 Group of Governmental Experts on the United Nations Register of Conventional Arms.

The report takes into account the work of the Disarmament Commission on international arms transfers, the work of the Conference on Disarmament, the views expressed by Member States and the 1994 and 1997 reports on the continuing operation and further development of the Register.

The level of participation in the Register in the first eight years has been encouraging. Consistent participation by almost all the major producers, exporters and importers of major conventional weapons has enabled it to cover the great bulk of the global trade in the Register's seven categories. A total of 149 Governments, including 146 Member States, have participated in the Register at least once.

Participation is not yet universal, however. Wider participation by Governments, especially in certain regions and subregions, is of paramount importance to the arms transparency process.

Some States do not see the Register, in its current form, as relevant to their essential security interests. It should be understood, however, that the Register is a dynamic instrument and that its scope can be expanded over time to reflect the full military potential of States.

I am encouraged that support for the Register through regional arrangements and agencies has continued to grow. It has been complemented by regional and subregional efforts to promote a higher degree of openness and transparency in military matters, while taking into account the legitimate security interests of States. In this regard, let me highlight the adoption by the Organization of American States in June 1999 of the landmark Inter-American Convention on Transparency in Conventional Weapons Acquisition. The weapons categories it contains are identical to those in the United Nations Register of Conventional Arms.

I encourage Member States to further the promising trend of increased voluntary reporting on military holdings and procurement through national production. The Group of Governmental Experts rightly recommends that the process of periodic review of the operation and further development of the Register should be continued, and that the General Assembly should decide at an early date on the next review. The Group envisages a number of activities to be undertaken by the United Nations in this regard. The Secretariat stands ready to provide all

possible assistance in further promoting the aims of the Register, with a view to achieving universal participation.

I owe a debt of gratitude to the members of the Group of Governmental Experts for their work in preparing this report, which I commend to the General Assembly for its consideration.

Letter of transmittal

4 August 2000

Sir,

I have the honour to submit herewith the report of the Group of Governmental Experts on the United Nations Register of Conventional Arms. The Group was appointed by you in pursuance of paragraph 5 (b) of General Assembly resolution 52/38 R of 9 December 1997, paragraph 4 (b) of resolution 53/77 V of 4 December 1998 and paragraph 4 (b) of resolution 54/54 O of 1 December 1999, respectively.

The governmental experts appointed were the following:

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The report was prepared between March and August 2000, during which the Group had three sessions in New York, the first from 6 to 10 March 2000, the second from 22 May to 2 June 2000 and the third from 24 July to 4 August 2000.

The members of the Group wish to express their appreciation for the assistance they received from members of the Secretariat of the United Nations. In particular, they wish to thank João Honwana, Chief of Conventional Arms Branch, Department for Disarmament Affairs, Nazir Kamal, who served as Secretary of the Group, and Major General Dipankar Banerjee (Retd.) who served as consultant to the Group. The Group is also grateful to Jayantha Dhanapala, Under-Secretary-General for Disarmament Affairs, for the support received from him throughout its work.

I have been requested by the Group of Experts, as its Chairman, to submit to you, on its behalf, the present report which was unanimously approved.

(*Signed*) Rafael M. **Grossi**
Chairman of the Group of Governmental Experts on the United Nations Register of Conventional Arms

I. Introduction

A. Establishment of the Register

1. On 7 December 1988, by its resolution 43/75 I, entitled "International arms transfers", the General Assembly mandated an expert study on arms transfers, including their security and disarmament implications. The study on ways and means of promoting transparency in international transfers of conventional arms (A/46/301, annex), completed and transmitted by the Secretary-General to the General Assembly in 1991, highlighted the positive impact of transparency in armaments. Enhanced transparency, it stressed, could facilitate measures of limitation and restriction by increasing confidence and reducing the risk of misperception. A major recommendation of the study was that the United Nations should establish a universal and non-discriminatory arms transfer register as soon as possible. In that regard, it further recommended that the register should be so designed and maintained as to promote restraint in arms transfers on a unilateral, bilateral or multilateral basis.

2. The General Assembly, by its resolution 46/36 L of 9 December 1991, entitled "Transparency in armaments", requested the Secretary-General to establish and maintain at United Nations Headquarters a universal and non-discriminatory Register of Conventional Arms and set out the arrangements for the consideration of its development. The Assembly called upon all Member States to provide annually for the Register data on imports and exports of conventional arms in the seven categories covered under the Register, and, pending the expansion of the Register, invited them also to provide to the Secretary-General, with their annual report on imports and exports of arms, available background information regarding their military holdings, procurement through national production and relevant policies, and requested the Secretary-General to record that material and to make it available for consultation by Member States at their request.

3. In the same resolution, the General Assembly reiterated its conviction that arms transfers in all their aspects deserved serious consideration by the international community, inter alia, because of: (a) their potential effects in further destabilizing areas where tension and regional conflict threaten international peace and security as well as national security; (b) their potentially negative effects on the progress of the peaceful social and economic development of all peoples; and (c) the danger of increasing illicit and covert arms trafficking. It called upon Member States to exercise due restraint in exports and imports of conventional arms, particularly in situations of tension or conflict, and to ensure that they have in place an adequate body of laws and administrative procedures regarding the transfer of arms and to adopt strict measures for their enforcement.

4. The General Assembly furthermore declared its determination to prevent the excessive and destabilizing accumulations of arms, including conventional arms, in order to promote stability and strengthen regional or international peace and security, taking into account the legitimate security needs of States and the principle of undiminished security at the lowest possible level of armaments. It also reaffirmed the inherent right to individual and collective self-defence recognized in Article 51 of the Charter of the United Nations.

B. Developments since 1991

1992 Panel

5. In accordance with General Assembly resolution 46/36 L, the Secretary-General convened a panel of governmental technical experts in 1992. The tasks of the Panel were to assist the Secretary-General:

(a) To elaborate the technical procedures and to make any adjustments to the annex to resolution 46/36 L necessary for the effective operation of the Register;

(b) To prepare a report on the modalities for early expansion of the scope of the Register by the addition of further categories of equipment and the inclusion of data on military holdings and procurement through national production.

6. The General Assembly, by its resolution 47/52 L of 15 December 1992, entitled "Transparency in armaments", endorsed the report of the Secretary-General containing the recommendations of the Panel (A/47/342), called upon all Member States to provide the requested data and information to the Secretary-General by 30 April annually, beginning in 1993, and encouraged Member States to inform the Secretary-General of their national arms import and export policies, legislation and administrative procedures, both as regards authorization of arms transfers and prevention of illicit transfers, in conformity with paragraph 18 of its resolution 46/36 L. Subsequent resolutions of the General Assembly reiterated that request. The Panel also recommended that the consolidated annual report of the Secretary-General to the General Assembly on the data registered and the available background information submitted by Member States be open to the public.

1994 Group of Governmental Experts

7. In accordance with General Assembly resolutions 46/36 L, 47/52 L and 48/75 E of 16 December 1993, the 1994 Group of Governmental Experts was established to report on the continuing operation of the Register and its further development. The Assembly, in its resolution 49/75 C of 15 December 1994, took note of the report of the Secretary-General transmitting the report of the Group (A/49/316). By the same resolution, the General Assembly decided to keep the scope of and participation in the Register under review and, to that end, requested Member States to provide the Secretary-General with their views on the continuing operation of the Register and its further development and on transparency measures related to weapons of mass destruction.

1997 Group of Governmental Experts

8. In accordance with General Assembly resolution 51/45 H of 10 December 1996, entitled "Transparency in armaments", the 1997 Group of Governmental Experts was established to prepare a report on the continuing operation of the Register and its further development, with a view to a decision at the fifty-second session of the Assembly. By its resolution 52/38 R of 9 December 1997, entitled "Transparency in armaments", the General Assembly took note of the report of the Secretary-General transmitting the report of the Group of Experts (A/52/316) and endorsed the recommendations of the report. The Assembly also decided to keep the scope of and participation in the Register under review and to that end, requested Member States to provide their views to the Secretary-General on the continuing

operation and further development of the Register. In addition, it requested the Secretary-General, with the assistance of a group of governmental experts to be convened in 2000 on the basis of equitable geographical representation, to prepare a report on the continuing operation of the Register and its further development, with a view to a decision at its fifty-fifth session.

9. The General Assembly also adopted resolution 52/38 B of 9 December 1997, entitled "Transparency in armaments", in which it took note of the reports of the Secretary-General on transparency in armaments (A/52/312 and Corr.1 and 2 and Add.1 and 2, and A/52/316) and requested the Secretary-General to seek the views of Member States on ways and means of enhancing transparency in the fields of weapons of mass destruction and transfers of equipment and technologies directly related to the development and manufacture of such weapons with a view to enhancing transparency in the field of conventional weapons.

2000 Group of Governmental Experts

10. By its resolution 54/54 O of 1 December 1999, entitled "Transparency in armaments", the General Assembly recalled its request to the Secretary-General, with the assistance of a group of governmental experts to be convened in 2000, on the basis of equitable geographical representation, to prepare a report on the continuing operation of the Register and its further development, taking into account the work of the Conference on Disarmament, the views expressed by Member States and his reports on the continuing operation of the Register and its further development, with a view to a decision at its fifty-fifth session. The Assembly also requested Member States to provide the Secretary-General with their views on the continuing operation of the Register and its further development and on transparency measures related to weapons of mass destruction.

11. By its resolution 54/54 I of 1 December 1999, entitled "Transparency in armaments", the General Assembly requested the Secretary-General, with the assistance of the Group of Governmental Experts to be convened in 2000 and taking into account the views submitted by Member States, to report to the General Assembly at its fifty-fifth session on:

(a) The early expansion of the scope of the Register; and

(b) The elaboration of practical means for the development of the Register in order to increase transparency related to weapons of mass destruction, in particular nuclear weapons, and to transfers of equipment and technology directly related to the development and manufacture of such weapons.

12. The Group of Governmental Experts considered the reports of the 1994 and 1997 groups of governmental experts on the continuing operation of the United Nations Register of Conventional Arms and its further development, as well as related resolutions of the General Assembly.

13. The Group took note of the guidelines and recommendations for objective information on military matters, adopted by the United Nations Disarmament Commission in 1992,[1] in which it was observed that, while the Register should be operated and further developed on the basis of relevant resolutions of the General Assembly, States should in the meantime take practical measures, on the basis of existing agreements, where applicable, and within appropriate forums, to increase openness and transparency in military matters through the provision of objective

information, including nuclear weapons, other weapons of mass destruction, the transfer of high technology with military applications, imports and exports of conventional arms, military holdings, procurement through national production and relevant policies.

14. The Group also took note of the report of the Disarmament Commission adopted in 1996, which contains "Guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991",[2] as well as the report of the Disarmament Commission adopted in 1999, which contains "Guidelines on conventional arms control/limitation and disarmament, with particular emphasis on consolidation of peace in the context of General Assembly resolution 51/4 N".[3]

15. The Group noted that in the guidelines for international arms transfers adopted by the Disarmament Commission in 1996, it was observed that arms transfers should be addressed in conjunction with the question of maintaining international peace and security, reducing regional and international tensions, preventing and resolving conflicts and disputes, building and enhancing confidence, and promoting disarmament as well as social and economic development. Restraint and greater openness, including various transparency measures, could help in this respect and contribute to the promotion of international peace and security. It was also observed that the United Nations, in keeping with its overall purposes and principles, had a legitimate interest in the field of arms transfers, recognized by the Charter of the United Nations, which referred specifically to the importance of the regulation of armaments for the maintenance of international peace and security. The report further observed that transparency measures concerning arms transfers were not in themselves measures of limitation or restriction, but they could in several ways promote and facilitate the introduction of unilateral or multilateral measures of restraint as well as help in the detection of arms transferred illegally. Among other things, States should respect the principles and purposes of the Charter of the United Nations, including the right of self-defence; Members should refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State; international arms transfers should not be used as a means to interfere in the internal affairs of other States; and disputes should be settled by peaceful means.

16. The Group also took into account the views of Member States given in response to previous General Assembly resolutions on transparency in armaments.[4] It also took note of the 1998 and 1999 reports of the Conference on Disarmament[5] as well as the report of the Group of Governmental Experts on Small Arms, transmitted to the General Assembly by the Secretary-General in his note dated 19 August 1999 (A/54/258), and the report of the Group of Experts on the problem of ammunition and explosives (A/54/155), submitted to the Assembly on 29 June 1999.

17. The Group reviewed the developments that have taken place in arms transparency, including specific issues, in the context of the current global and regional security situation since the inception of the Register in 1992. In view of the scarcity and limited nature of global arrangements devoted to conventional weapons, it was observed that efforts should be made to improve and further develop the United Nations Register of Conventional Arms, which was among only a few global instruments on arms transparency. The Group also observed with satisfaction that the Register had established a norm of transparency and that it had stimulated many

Governments to streamline their national systems for monitoring and regulating arms transfer. The Group stressed that submissions by Member States to the Register provide a significant amount of official information which otherwise would not have been available, and that this information provided a basis for regional and international consultations between Governments.

18. The Group reaffirmed the role of the Register as a confidence-building measure designed to improve security among States and recalled that the General Assembly, by its resolution 46/36 L, had considered that an enhanced level of transparency in armaments could contribute to confidence-building and security among States. The establishment of the Register, as part of a broader range of international efforts to promote transparency in military matters, was a step in that direction and could help to prevent an excessive and destabilizing accumulation of arms, in particular as it covered weapon systems that could be used for offensive operations. In that regard, the Register was an important tool involving transparency and confidence which had the potential of contributing to the easing of tensions and of restraint in arms transfers. The Group also noted that the Register could contribute to enhancing confidence, easing tensions, strengthening regional and international peace and security, and contribute to restraint in military production and the transfer of arms, taking into account the legitimate security needs of States and the principle of undiminished security at the lowest possible level of armaments. In that regard, the Group stressed that further efforts were needed towards achieving the above-mentioned objectives.

19. In considering the development of the Register, the Group took full account of the relationship between transparency and the security needs of States. It reaffirmed that participation in the Register, which was voluntary, was a means by which States could signal their preparedness to enter into dialogue with other States on this aspect of security policy. That can provide a valuable input into bilateral and regional dialogues on security concerns and the evolution of a more cooperative approach to security. In that context, the Group recalled that transparency was not an end in itself, nor was the Register a control mechanism, but rather a confidence-building measure designed to improve security relations among States.

20. Taking into account the views submitted by Member States to the Secretary-General, as called for in the relevant resolutions of the General Assembly, and those raised in its discussions, the Group observed that, notwithstanding that the Register dealt with conventional weapons, the principle of transparency could also apply, in conjunction with other measures, to weapons of mass destruction and to transfers of high technology with military applications, as reflected in the provisions of various relevant legal instruments and in the founding resolution 46/36 L.

II. Review of the operation of the Register

A. General

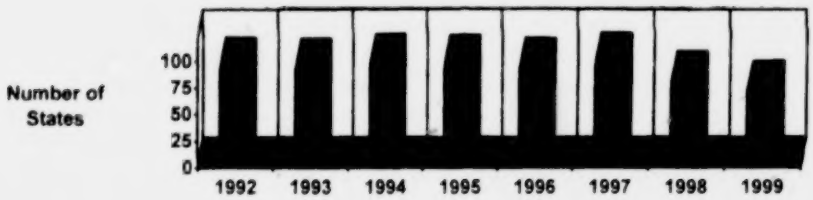
21. In the course of its deliberations, the Group had at its disposal the data and information submitted by Governments for the Register by 4 August 2000 for the calendar years 1992 to 1999 inclusive.[6] The Group also had before it the views of Member States on the operation of the Register, submitted in response to General Assembly resolution 46/36 L and subsequent resolutions. In the light of those data

and information, the Group reviewed the operation of the Register with a view to making recommendations for enhancing its operation and further development.

B. Extent of participation

22. The Group noted that, with the exception of 1998, in each calendar year of the operation of the Register, over 90 Governments had submitted reports on arms transfers. The number of Governments submitting reports for the calendar years 1992-1999 is indicated in figure 1.[7]

Figure 1
Extent of Participation by States

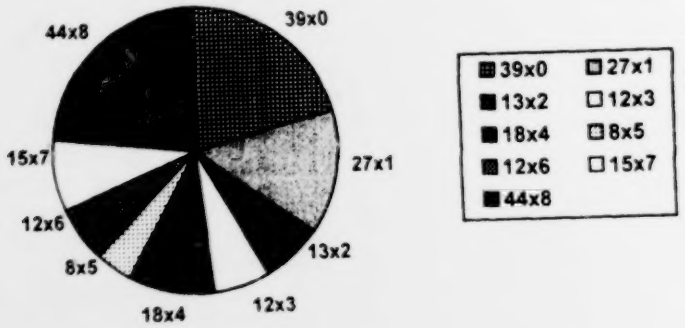


23. The Group was encouraged to note that the level of participation remained one of the highest compared with similar international reporting instruments, such as the United Nations system for the standardized reporting of military expenditures. But it also noted that overall participation was lower in calendar year 1998 than in previous years. In that regard, the Group noted that of the Governments which did not make a submission in 1998, but did so in the previous year, most had submitted a "nil" report. The Group also observed that the Register had entered a consolidation phase, requiring continued efforts to build upon the quantitative and qualitative achievements made so far, and to achieve the goal of universal participation.

24. Not all Governments that had submitted reports had participated consistently each year. The Group took account of the fact that, to date, a total of 149 Governments, including 146 Member States, had participated in the Register at least once by reporting either a "nil" transfer or an actual transfer.

25. Of the eight years of operation of the Register, 44 Governments had participated consistently, while 27 Governments had reported only once, and 39 had never submitted a report. The frequency of reporting by States is shown in figure 2. The graph indicates the number of times a country has reported to the Register since 1992. For example, 15 States reported seven times to the Register, while 27 States reported once to the Register.

Figure 2
Submission by States during calendar years 1992-1999



26. The Group noted that of the States that had participated in the Register one or more times, a varying number had not reported consistently in each calendar year. However, transfers involving some of the States not participating in a given year are reported on in returns submitted by those participating in that year. Although 57 States that had participated one or more times in previous years did not participate in calendar year 1996, 8 of those States were reported upon in returns by participating States in that year. Similarly, in 1997, there were 51 such States, of which transfers involving 7 were reported. In 1998, there were 67 such States, of which transfers involving 13 were reported.

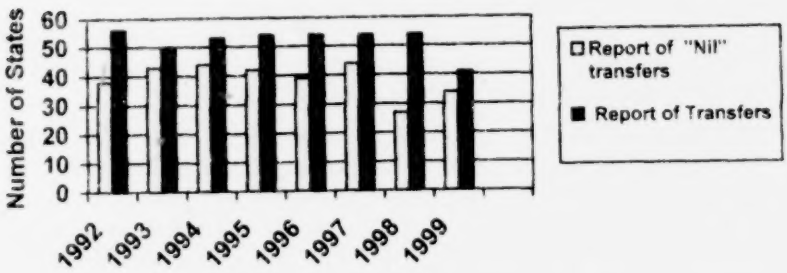
27. Of the Member States that had never submitted reports, there were at least 10 States each year, on average, which were reported upon by other Member States as either an importer or an exporter, reaching a high point of 14 States in calendar year 1997. Related to this is the number of Member States which had never submitted reports and had never been reported upon by other States. The Group noted that the total number of such States was less than 25. This relatively low figure implies that, while a total of 146 Member States have participated in the Register so far, more than 160 States have been reported upon by other States as either an importer or exporter.

28. On the quantitative side, the Group observed that, in addition to the number of States participating each year, account should be taken of the overall coverage of arms transfers provided by the Register. In that regard, it was noted that the total number of States involved in arms transfers covered by the Register in any given calendar year would be substantially greater than the number of participating States in that year, since there were States that had never participated in the Register but had been mentioned by those submitting returns. Similarly, there were States that had not participated in a particular calendar year but had been mentioned in submissions by other States. Thus, for example, while 82 States participated in calendar year 1998, the Register covered references to a total of 106 States, of which 11 had never participated in the Register and 13 had participated at least once in the preceding period. On this basis, the total number for calendar year 1998 amounts to 119.

29. On the qualitative side, it was observed that the Register covered the great bulk of arms trade in the seven categories of conventional weapons, as almost all the significant suppliers and recipients of such weapons submitted reports regularly.

30. Taking account of the need to enhance the utility of the Register, it was observed that the goal of universal participation had not yet been reached. While there was a levelling off in the pattern of incremental growth of overall participation in the Register in calendar year 1998, the Group took note of the factors that might account for the lack of universal participation on arms transfers so far. In some cases, States not reporting did not possess equipment or engage in transfers of equipment covered by the seven categories in the Register. In such cases, the importance of submitting "nil" reports was emphasized; otherwise it would not be clear whether transfers had taken place. Nevertheless, it was noted that many States that had neither imported nor exported equipment covered by the Register had submitted "nil" reports, with the partial exception of calendar year 1998. The Group also noted that the number of States reporting transfers had remained relatively stable through the years. The number of Governments submitting "nil" reports for both imports and exports, together with the number of Governments submitting data on arms transfers, is provided in figure 3.

Figure 3
Reporting of Transfers vs. "Nil" reporting

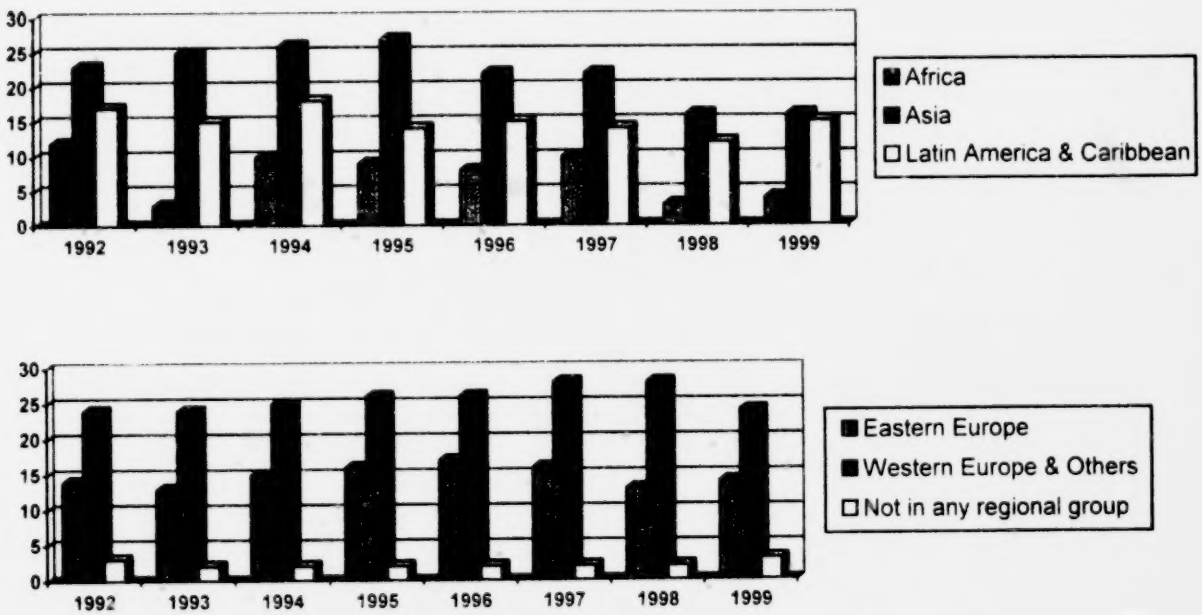


31. There remained, however, a number of States that had not yet participated in the Register by submitting a "nil" report. Their participation, it was emphasized, was important, both for making progress towards the goal of universal participation as well as for expanding the geographical boundaries of confidence-building through transparency. Similarly, it was observed that some States that had been submitting "nil" reports had not been consistent in their participation. For the sustained growth in the level of participation, it was also important that "nil" reports, where appropriate, were submitted, since a substantial number of Governments could be expected to fall in this category in any calendar year, as has been the case since the inception of the Register in 1992. For example, there were 24 States that did not participate in calendar year 1998 but did so in calendar year 1997. Of those, 21 had submitted "nil" reports. The Group also noted that a substantial percentage of participating States had submitted "nil" reports in each of the seven calendar years. In 1998, the percentage recorded was nearly 21, which was the lowest for the period 1992-1998. In all other years, more than 35 per cent had

submitted "nil" reports, with a high of over 41 per cent for calendar years 1994 and 1997. For calendar year 1999, 31 States had submitted "nil" reports out of a total of the 78 States that had submitted a return as of 4 August 2000.

32. It was noted that the level of reporting varied from region to region and that that pattern remained consistent throughout the reporting years. In that regard, it was also observed that the level of participation within regions was not consistent for all the regions in calendar year 1998. Participation by region, based on a United Nations list of regional groups,[8] is provided in figure 4.

Figure 4
Participation by Governments according to region for calendar years 1992-1999



33. It should be noted that the data in figure 4 represent Member States only. Thus, the submissions of the Governments of Switzerland (an observer State), Cook Islands, Niue as well as Kiribati (which is now a Member State) are not included. In all other figures and tables they are included.

34. Additional data on participation by region, showing ratios within regions, are provided in table 1.

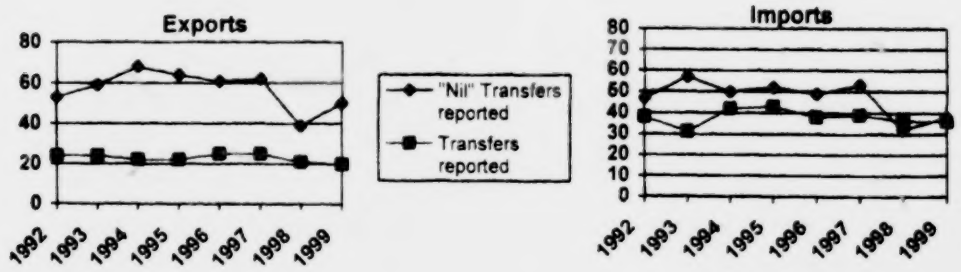
Table 1
Regional participation

Region	*1992*	*1993*	*1994*	*1995*	*1996*	*1997*	*1998*	*1999 As of 4 August 2000*
Africa	12 of 51	3 of 52	10 of 53	9 of 53	8 of 53	10 of 53	3 of 53	4 of 53
Asia	23 of 47	25 of 47	26 of 48	27 of 48	22 of 48	22 of 48	16 of 48	16 of 48
Eastern Europe	14 of 19	13 of 20	15 of 21	16 of 21	17 of 21	16 of 21	13 of 21	14 of 21
Latin America and the Caribbean	17 of 33	15 of 33	18 of 33	14 of 33	15 of 33	14 of 33	12 of 33	15 of 33
Western Europe and others	24 of 24	24 of 27	25 of 27	26 of 27	26 of 27	28 of 28	28 of 28	24 of 28
Not in any regional group	3 of 5	2 of 5	2 of 3	2 of 3	2 of 3	2 of 3	2 of 3	2 of 3

C. Reports on exports and imports

35. The Group observed that the number of States reporting exports and imports remained relatively stable throughout the period under review. The number of Governments reporting, including those which submitted "nil" reports on exports or imports, in the years 1992-1999 is indicated in figure 5 below.

Figure 5
Government reports on imports and exports

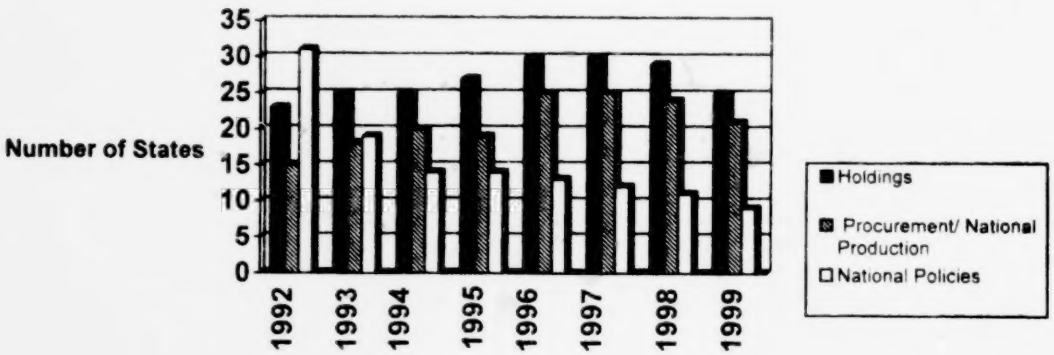


36. It was noted that a number of States, reported upon as an exporter or importer by participating States, did not make any report for the Register. On average, 11 States fell into that category. For calendar years 1996-1998, the figure varied from a low of 7 to a high of 14; they were not the same States in every year.

D. Reports on additional background information

37. The number of States reporting additional background information, in accordance with paragraph 10 of resolution 46/36 L, has increased over the first seven years of reporting with regard to information on procurement through national production and military holdings. Under the terms of the resolution, States are invited (rather than called upon, which is the case for arms transfers) to provide such information. They can submit the information in any form that they wish. With very few exceptions, participating States reported on the seven categories covered by the Register, providing information on procurement through national production and military holdings. A total of 47 Governments submitted reports on their military holdings during the calendar years 1992-1998, of which a large number have reported regularly, while a total of 29 Governments submitted reports regarding their procurement through national production during the period, of which a large number have reported regularly. Of the Governments that reported during the calendar years 1992-1998, on average, seven reported on weapons not within the categories covered by the Register. The Group observed that many States had reported national policies only once and thereafter had reported only changes or additions as they occurred. The overall pattern of reporting of available background information is provided in figure 6.

Figure 6
Holdings, procurement and national policies



E. Assessment of reporting

38. In reviewing the first seven calendar years of the operation of the Register, the Group welcomed the continuing commitment of States reporting to the Register on a regular basis. Continuity of reporting was important not only to preserve the relevance of the Register, but also to provide a basis for any analysis of trends over time. The Group considered that non-participation by States might be for political and bureaucratic reasons. Also, some States might not have been convinced that the Register alone was relevant to their security concerns. In other cases, the existing scope and parameters of the Register could be a reason for non-participation. Additional reasons for non-participation may be a lack of resources or awareness of the operation of the Register. It was also noted that in some cases armed conflict, severe political crises or other negative developments in the international security situation might have hampered reporting.

39. The Group considered, however, that gaining wider participation in the Register was of high importance. As indicated above, over 90 Governments reported to the Register for each of the calendar years 1992 to 1997 inclusive. In calendar year 1998, the number was 82. Nevertheless, for all the calendar years, the information provided by both exporters and importers covered the bulk of the global trade in the seven existing categories of the Register. While this level of reporting is higher than other comparable reporting instruments, consistent reporting by Governments that have not engaged in arms transfers in a calendar year would substantially raise the overall level of participation. Greater awareness of the function of the Register and familiarity with its procedures, it was observed, could also facilitate increased participation. Universality of participation would greatly enhance the value of the Register as a confidence-building measure. Furthermore, failure to report one side of a transfer created uncertainty about the accuracy of that data, which wider participation would serve to reduce.

40. It was observed that, as shown by the analysis of data on the reporting pattern since 1992, a large proportion of non-participating States are likely to fall in the category of potential "nil" reporters. The Group reaffirmed the value of participation by the submission of "nil" reports since such reports helped to complete the overall picture of arms transfers and are a valuable form of participation in the confidence-building process provided by the Register. The Group believed that every effort should be made to encourage States to participate in the Register by submitting a "nil" report if they have neither imported nor exported equipment in the Register categories during the calendar year subject to reporting.

41. The Group observed that the extension of the deadline for submitting returns from 30 April to 31 May each year, which had been adopted since 1998, following the recommendation contained in the 1997 report of the Group of Governmental Experts, was widely welcomed by Governments, as a number of them had found it difficult to submit their reports by the previous due date, because of their particular situations. Nevertheless, the Group considered it important that States report promptly in order to enable the annual consolidated report on the Register to be prepared as soon as possible after the due date and in good time for consideration by the General Assembly. Prompt reporting would also enhance transparency by shortening the time lag in making such data available to all Member States.

42. In analysing reporting by Governments, the Group noted significant variations among regions. These variations follow a consistent pattern, which could be related to the reasons mentioned in paragraph 38 above. Changes in regional or subregional situations in a particular calendar year may also play a role in the pattern of reporting from regions.

43. The Group observed that mismatches continued to occur on details of transfers, such as the number of items transferred, the date of the transfer and the type of equipment. It considered that an important reason for some of those discrepancies could be the lack of a common definition of a transfer. This led to differing interpretations not only of whether a transfer had taken place, but also of the timing of a transfer. National practices continue to differ and sometimes a transfer is reported in different years, leading to the mismatch in the Register. Agreement on a common definition is complicated by differing national practices regarding the implementation of rules, regulations and procedures for exports and imports. At present the description of a transfer, given in the report of the 1992 Panel and reaffirmed by the 1994 and 1997 groups of governmental experts, remains the guideline for reporting transfers. The Group also believed that among the reasons for discrepancies in reporting of transfers was a lack of knowledge and understanding of the Register and its procedures, and limited availability of resources for implementing the Register.

44. The Group observed that the number of participating States using the "Remarks" column in the reporting format to provide designations and descriptions of equipment transferred had increased over the seven years of reporting. The "Remarks" column was designed by the 1992 Panel to aid the understanding of international transfers by providing the opportunity, if States so wished, to report the designation, type or model of the equipment being transferred. The 1992 Panel also suggested that the column could also be used to provide additional clarification of transfers, such as if the equipment were obsolete or the result of co-production. The number of Governments using the "Remarks" column to indicate types and models in reporting exports and imports is detailed in table 2.

Table 2
Frequency of "Remarks" column use

	1992	*1993*	*1994*	*1995*	*1996*	*1997*	*1998*	*1999 as of 4 August 2000*
Exporters	15 of 24	16 of 24	17 of 22	19 of 22	23 of 25	26 of 26	22 of 23	19 of 20
Importers	26 of 38	24 of 31	34 of 42	35 of 43	32 of 36	37 of 40	41 of 41	36 of 36

45. The Group reaffirmed the view that use of the "Remarks" column helped in gaining an understanding of the data provided, and in identifying or reducing discrepancies, thereby adding considerable value to the Register. Information on models and types of equipment not only aided clarity but also provided an important qualitative element to reporting. The Group therefore encouraged Governments to maximize their use of this column when reporting transfers.

46. With regard to reporting on available background information, the Group noted the increase in reporting, in accordance with General Assembly resolution 46/36 L, on military holdings and procurement through national production. It also noted that

the overwhelming majority of reports provided data on the seven categories of the Register. The Group took account of those voluntary practices and considered that continued dissemination of the information would be useful.

47. The Group also noted with satisfaction the improvements in reporting by States, such as the increasing use of the "Remarks" column, achieved on the basis of recommendations of the 1997 Group of Governmental Experts.

III. Development of the Register

A. General

48. By its resolution 46/36 L, the General Assembly initiated the process for future expansion of the scope of the Register by the addition of further categories of equipment and the inclusion of data on military holdings and procurement through national production. Modalities for such expansion were considered by the 1992 Panel, which presented its findings to the Assembly at its forty-seventh session. The question of further development of the Register was discussed extensively by the 1994 Group of Experts on the continuing operation of the Register and its further development, but no agreement was reached on any of the proposals put forward. The 1997 Group also examined various proposals to further develop the Register. It studied the definitions of the existing seven categories to ascertain whether they still met the purposes of the Register. Proposals and issues relating to weapons of mass destruction and the inclusion of small arms and light weapons were also considered. The 1997 Group studied the implications of the proposed technical adjustments but could not reach agreement on such adjustments.

49. The 2000 Group of Governmental Experts engaged in an extensive and detailed technical examination of the issue of adjustments to the seven categories of weapons covered by the Register. In that context, it also examined the concepts of force projection and force multiplier capabilities in the light of technological developments affecting the conduct of modern warfare.[9] The Group noted that, while in some cases those capabilities might not be offensive systems in themselves, they could add to the effectiveness of offensive systems. The issue of whether weapon systems could be described as offensive or defensive was also discussed more broadly and it was recognized that any distinctions must take into account differences in the military doctrines of States. In the context of force projection and force multiplier capabilities, the Group examined the question of whether this kind of adjustment would make the reporting procedure more complex and whether, in that respect, it might affect both the scope of the Register and the ultimate goal of universal participation. Bearing in mind the ultimate goal of universal participation as well as the further development of the Register, the Group discussed each of the existing categories separately to determine the desirability and feasibility of introducing adjustments. In addition, in the context of issues relating to the expansion of the scope of the Register, the Group considered the issue of including data on military holdings and procurement through national production. The Group also considered the question of the interrelation of small arms and light weapons with the Register, as well as the issue of transparency in weapons of mass destruction, in particular nuclear weapons.

B. Categories of weapons covered by the Register[10]

Category I. Battle tanks

50. The Group believed that the existing definition of battle tanks provided adequate coverage. In this regard, it was observed that the technological trend was towards the development of tanks of higher rather than lower tonnage and gun calibre.

Category II. Armoured combat vehicles

51. The Group analysed the current definition of category II and discussed the issue of adjustments covering reconnaissance and target acquisition systems, bridge-laying equipment, armoured recovery vehicles and electronic warfare systems. The question of light tanks was discussed, as such tanks, which potentially fall outside category I, could be examined within the framework of this category, which provided a broad conceptual scope for addressing tanks and other armoured vehicles not covered by the category I definition.

Category III. Large-calibre artillery systems

52. The Group recalled the discussion on adjustments under category III that had taken place in the 1994 and 1997 groups of governmental experts, and examined the relevance and significance of including artillery systems between the ranges of 35 and 100 mm, which fall outside the existing definition. For example, lowering the threshold to 75 mm would include 81 mm and 82 mm mortars, which have seen widespread use in some recent conflicts. The discussion of this issue enabled an analysis of measures to increase transparency in small arms and light weapons. In that regard, the Group took note of the United Nations Conference on Illicit Trade in Small Arms and Light Weapons in all its aspects, to be held in the year 2001.

Category IV. Combat aircraft

53. In category IV, the question of adjustments was discussed in relation to military aircraft, for example, the inclusion of force multipliers such as reconnaissance, command of troops, electronic warfare and force projection capabilities such as air-to-air refuelling and aircraft designed to perform troop transport and airdrop missions. In that regard, the Group also discussed the question of coverage of systems in the context of their combat role in large-scale offensive operations and surprise attacks. The Group also considered whether the existing definition failed to capture all military aircraft performing specialized electronic warfare, suppression of air defence and reconnaissance missions by only covering "versions of combat aircraft". Similar consideration on this final point was also given under category V.

Category V. Attack helicopters

54. In category V, as in the case of some other categories, the Group examined the question of adjustments in relation to significant combat support systems, for example, target acquisition (including anti-submarine warfare), communications, command of troops, electronic warfare, mine-laying and transport helicopters. In that regard, as in relation to category IV, the Group discussed the implications of making technical adjustments that might require rephrasing the category title or

creating a new category. The technical discussion also generated views regarding the possible parameters of military transport helicopters, including its lift capacity, in order to provide a clear definition for reporting purposes.

Category VI. Warships

55. The discussion on possible adjustments to category VI revolved around the issue of lowering the tonnage of surface warships, and the Group discussed the implications of a possible lowering of the threshold to 400 metric tons, which would include, for example, mine-laying and amphibious vessels. Similarly, the Group considered other developments, such as the firepower of vessels falling below the existing threshold of 750 metric tons, which in some cases were comparable to those possessed by larger vessels. The question was raised as to whether such vessels could be regarded as being potentially destabilizing. The Group also took note of vessels operated by coast guards that are meant for domestic law enforcement, and other vessels that have a coastal patrol role or are devoted to coastal defence.

56. The analysis by the Group extended to the issue of military significance in the context of the Register, that is to say, whether consideration of vessels for possible inclusion in category VI should be confined to those with a "blue water" capability or should cover also other warships that might be significant in a regional context. In that regard, views were exchanged on the issue of the defensive and offensive role of some classes of surface warships, in particular mine-laying/sweeping vessels.

Category VII. Missiles and missile launchers

57. In category VII, the main focus of consideration was the issue of man-portable air defence systems (MANPADS) and the question of transparency in international transfers involving such systems. In that regard, the Group examined in detail the question as to whether missiles of less than 25 km range, particularly surface-to-air systems, were defensive or offensive weapons, and whether they could be deemed to fall outside the scope of the Register. Similarly, it examined the interrelation between MANPADS and the question of small arms and light weapons. In that context, the specific role of the Register in promoting transparency, in contrast to reduction and limitation measures envisaged in arms control instruments, was discussed.

C. Expansion of the scope of the Register

58. In connection with adjustments to the seven categories of the Register, the question of combat support and combat service support capabilities[11] frequently arose during the discussion. The issue was thus examined from conceptual and methodological standpoints. Conceptually, for example, combat support and combat service support systems could be addressed separately by adding two new categories, or the existing seven categories could be subdivided to cover combat, combat support and combat service support systems, respectively. In the context of force projection and force multiplier capabilities, the Group examined the question as to whether this kind of adjustment would make the reporting procedure more complex and whether, in this respect, it might affect both the scope of the Register and the ultimate goal of universal participation.

59. The Group discussed the issue of expanding the scope of the Register to include data on military holdings and procurement through national production on the same basis as data on transfers. In particular, it addressed the question of whether such an expansion would promote greater participation in the Register. A proposal was made to work towards expansion with data on procurement through national production, which could fulfil the objective of making the Register more balanced and provide greater transparency. A proposal was also made for transparency in international transfers of military technology.

60. The Group addressed the issue of weapons of mass destruction. In that connection, proposals were made for transparency in nuclear weapons, including bombers and other delivery systems, weapons-grade material and production facilities, as well as for a review of the Register with the aim of including weapons of mass destruction.

IV. Regional aspects

A. Overview

61. In resolution 46/36 L and subsequent resolutions, the General Assembly called upon Member States to cooperate at regional and subregional levels, taking fully into account the specific conditions prevailing in the regions or subregions, with a view to enhancing and coordinating international efforts aimed at increased openness and transparency in armaments.

62. The Group noted variations in the pattern of reporting among the regions. It welcomed the efforts made by regional organizations and arrangements, individual Member States and the United Nations Secretariat to promote participation in the Register. It expressed the belief that this effort should be sustained in order to help achieve the goal of universal participation in the Register. The Group took account of the different security conditions, recognizing that complementary confidence-building and security-building measures and other work to enhance security should take account of specific concerns and security perceptions. In that context, it noted that other measures related to weapons and equipment not covered by the categories in the Register had particular importance in certain regions in ensuring that the whole spectrum of security concerns was taken into account, in particular in those regions in which the threat of armed conflict still existed. The Group also noted that in certain instances the Register had a beneficial influence in stimulating activities in relation to confidence-building measures and discussions on regional security.

B. Support of the Register through regional arrangements and agencies

Asia and the Pacific

63. In the region of Asia and the Pacific, the overall level of participation continues to be relatively modest since the inception of the Register, as can be observed from the data provided in table 1. The highest level of participation was recorded for calendar year 1995 at 56 per cent, while the lowest level was 33 per

cent for 1998. A large proportion of non-participating States or States which have not participated consistently are those that would be likely to return a "nil" report.

64. Participation in some subregions, particularly in areas of tension, has been markedly low, affecting the level of overall participation. In this regard, with the aim of achieving universal participation in the Register, the Group stressed the importance of taking into account all the principles contained in the Charter of the United Nations as well as the guidelines for international arms transfers referred to in paragraph 15 of the present report. The Group also took note of the action taken by the General Assembly relevant to the regional context. In resolutions 54/59 of 1 December 1999 and 51/50 of 10 December 1996 on strengthening security and cooperation in the Mediterranean region, the Assembly encouraged all States of the region to favour the necessary conditions for strengthening the confidence-building measures among them by promoting genuine openness and transparency on all military matters by, inter alia, providing accurate data and information to the Register. Similar encouragement was expressed by the Assembly in its resolutions 49/81 of 15 December 1994 and 50/75 of 12 December 1995.

65. From the time of its establishment in 1994, the Association of South-East Asian Nations (ASEAN) Regional Forum (ARF) has been making efforts for the eventual participation by all ARF countries in the Register. An important step in support of the Register was the 1996 decision at the Foreign Ministers meeting to endorse the recommendations of the Inter-Sessional Group on Confidence Building Measures that ARF participants should be encouraged on a voluntary basis to circulate the data submitted to the Register at the same time to other ARF countries. Ministers also endorsed the recommendations that discussions on the Register within the ARF framework should be continued, with a view to enhancing security in the region, and that ARF participants should be encouraged to work together within the United Nations to promote more global participation in the Register. In support of those recommendations, active efforts are under way to explore issues related to participation in the Register and identify possible cooperation among ARF countries.

The Americas

66. Overall participation from Latin America and the Caribbean has been relatively modest since the inception of the Register. The level of participation registered a high of nearly 55 per cent in calendar year 1994 and a low of 36 per cent in 1998. A large proportion of non-participating States or States which have not participated consistently are those that would be likely to return a "nil" report. Bureaucratic reasons have been a major factor for the modest level of participation. However, significant developments in the region in the area of arms transparency are likely to facilitate a higher level of overall participation.

67. On 7 June 1999, following two years of intensive consultations, the General Assembly of the Organization of American States (OAS) adopted the landmark Inter-American Convention on Transparency in Conventional Weapons Acquisitions.[12] The Convention puts in place a concrete mechanism for strengthening regional stability through confidence-building and transparency. It requires States parties to provide annual reports to the OAS depositary on its imports and exports of conventional weapons covered by the Convention, which are identical to those covered by the United Nations Register. States parties are also

required to notify the depositary of its acquisitions of conventional weapons, whether through imports or national production, within 90 days of incorporation in the armed forces. States parties that have not acquired weapons are required to submit a "nil" return no later than 15 June of each year.

68. The Presidents of MERCOSUR (Argentina, Brazil, Paraguay and Uruguay), Chile and Bolivia, at their meeting in Buenos Aires on 30 June 2000, reaffirmed the importance of confidence-building measures in the area of conventional armaments and made an appeal in favour of universal participation in the United Nations Register of Conventional Arms.

Europe

69. Participation by the European States has been the highest among the regions of the world since the inception of the Register. In particular, participation by the countries of Western Europe in calendar years 1997 and 1998 was universal. Among Eastern European States, overall participation has been reasonably high as well as relatively stable, though not universal. There has been an average of approximately 80 per cent participation in recent years.

70. To strengthen confidence and security among its participating States, the Organization for Security and Cooperation in Europe (OSCE) has adopted a number of documents and other confidence- and security-building measures providing for increased transparency on matters related to conventional armaments. In November 1999, at the Istanbul Summit, OSCE adopted the Vienna Document 1999 of the Negotiations on Confidence- and Security-building Measures. The document integrates revisions to preceding versions and a new set of measures covering the following areas: exchange of military information, defence planning, risk reduction, military contacts and visits, prior notifications and observation of certain military activities, constraints on certain military activities, verification and compliance, and regional measures. In addition, the Global Exchange of Military Information (GEMI), adopted at the Budapest Summit in 1994, provides for an annual exchange of information on military holdings covering a range of conventional armaments, including those found in the United Nations Register (except category VII). By a decision of the OSCE Forum for Security Cooperation in December 1997, participating States also circulate annually among themselves their data and other background information as provided to the United Nations Register; this information may be reviewed and discussed annually as well as at the time of the Annual Implementation Assessment Meeting of the Forum, thus encouraging dialogue among participating States. In addition, following a decision by the OSCE Forum in December 1995, participating States provide information annually, in response to a questionnaire, on their policy and national practices for the export of conventional arms and related technology.

71. Members of the European Union (EU) and associated countries continued to promote adherence to the Register by encouraging all States Members of the United Nations to submit national data. In particular, they contacted States that had not submitted their return for a specific year, with the request to submit their return for that year. As a result of those contacts, EU members and associated countries reported a general willingness on the part of the large majority of such States to participate in the Register. In view of this stated willingness, the answer to why a

number of these States still do not report to the Register might be found in the observations made by the Group on this issue (see para. 38 above).

Africa

72. Overall participation in the Register by the African States has been the lowest among the regions of the world. It has fluctuated during the calendar years 1992-1998, starting with a high of nearly 24 per cent participation in 1992 and dropping to a low of less than 6 per cent in 1998. A large proportion of non-participating States or States which have not participated consistently are those that would be likely to return a "nil" report.

73. At a subregional conference in N'Djamena, held in October 1999, the United Nations Advisory Committee on Security Questions in Central Africa adopted the N'Djamena Declaration (A/54/530), which called for the creation of a uniform weapons register at the national and subregional levels and urged all States to give effect to the recommendations contained in the guidelines for international arms transfers in the context of General Assembly resolution 46/36 H of 6 December 1991.

74. The Expert Group considered the issue of the relevance of the Register in the regional and subregional context. In that context, the technical examination of possible adjustments to the seven existing categories of the Register included, in some cases, consideration of weapon systems falling within the broad spectrum of small arms and light weapons, which have received a greater focus of attention in Africa in recent years. This is reflected, for example, in the arms transparency initiative of the 16-nation Economic Community of West African States (ECOWAS) as well as other initiatives which are being considered within the framework of the Organization of African Unity.[13]

C. Enhancing implementation at the regional level

75. The Group felt that regional and subregional efforts should be encouraged, as they may pave the way towards a higher degree of openness, confidence and transparency in a region, thereby promoting greater participation in the Register. The Group also believed that such efforts should complement, and not detract from, the operation of the universal and global Register. In that context, the Group believed that it was necessary to undertake further action to promote participation in the Register, since this global transparency instrument has been in operation for the last eight calendar years, and concentrated promotional efforts had not taken place in recent years, as in the early years of the Register. In that regard, the Group recalled that workshops and seminars organized by the former Centre for Disarmament Affairs in different regions from 1993 to 1996 had played a significant role in enhancing awareness and promoting participation in the Register.

76. The Group also felt that promotional and familiarization efforts should be focused, in particular, on those regions or subregions where such efforts are likely to overcome non-participation or inconsistent participation by States. With regard to promoting participation in the Register, the Group noted that a number of States had engaged in multilateral, regional or bilateral efforts to that end. In addition, the Group noted that some Governments had expressed interest in offering assistance to

promote the Register at appropriate regional or subregional levels, and that some events were in the process of being organized.[14]

V. Implementation of the Register

A. Reporting methods

77. The Group observed that, for many States, national policies of relevance to the Register might not change every year. To add clarity to reporting on national policies on submitting additional background information it was felt that it might be helpful if States indicated in their report either that there had been "no change" or, if applicable, the nature of the changes. Once a report had been submitted, any changes to national policies that States considered relevant to the Register should be reported. The Group also considered the significance of submitting "nil" returns, where appropriate, and noted that a number of States had used simplified reporting methods for submitting such returns.

B. Contacts among Member States

78. The Group believed that, in order to resolve possible discrepancies in the data submitted by exporters and importers as well as other issues relevant to the Register, direct bilateral contacts were important, as well as other contacts, where appropriate. To that end, the Group encouraged all Governments to appoint an official, national point of contact. Such points of contact could deal with queries arising from the national submissions with a view to resolving misunderstandings. In that regard, the Group noted that, to date, 46 Governments[15] had provided information to the Secretariat regarding their national point of contact. It also noted that other official channels of communication, where appropriate, could play a role in addressing issues relevant to the Register.

C. Access to data and information reported

79. In order to enhance the value of the Register as a tool to build confidence in security matters, Member States must be assured of the widest possible access by Member States to the data and information stored in the Register database. This could be achieved in a number of ways, including the use of electronic means, as appropriate. In that regard, the Group discussed a number of ideas for enhancing the use of electronic means in the maintenance and universalization of the Register, including the following: a separate and well-designed home page for the Register in the Secretariat web site on disarmament matters, with links to other arms transparency instruments and databases; making national submissions to the Register available electronically through a user-friendly database with a searchable facility; inclusion of the updated United Nations information booklet on the Register in the proposed Register home page; and dissemination of publicity material prepared by the Department for Disarmament Affairs, particularly to inform national Governments of the relevance of the Register as a confidence-building measure. The Group also considered the possibility of electronic filing of national submissions to the Register.

D. Role of the United Nations Secretariat

80. The Group noted the importance of the role of the Secretariat in giving advice to Member States, when requested, on technical aspects of completing reports to the Register and in clarifying technical ambiguities in reports submitted. To enhance participation, timely reporting to the Register as well as timely preparation of the annual consolidated report of the Secretary-General to the General Assembly, the Group believed that it was important that the Secretariat play a role in promoting awareness of the Register and the procedures for reporting. In that regard, the Group considered a proposal for organizing annual workshops or consultative meetings on the Register prior to the deliberations in the First Committee or during the early stages of the session of the Committee.

81. The Group expressed appreciation of the role of the Department for Disarmament Affairs in disseminating useful information and educational material relating to the Register. In that regard, it commended the Department for publishing the United Nations information booklet on the Register and encouraged a regular update of the booklet.

82. The Group commended the Department for Disarmament Affairs for co-sponsoring a South Asia regional conference in Sri Lanka in June 2000, at which issues related to the Register were discussed. Focusing on the theme "Countering Small Arms and Light Weapons Proliferation in South Asia", the conference was hosted by the Colombo-based Regional Centre for Strategic Studies and also sponsored by Bradford University, United Kingdom.[16] The Group observed that the Department for Disarmament Affairs could facilitate the further holding of workshops and seminars at the regional and subregional levels with a view to achieving greater participation and enhancing familiarity with the Register and its procedures. The Group noted that the United Nations regional centres for peace and disarmament had a significant role to play in the process.

E. Future review of the Register

83. The Group stressed the importance of periodic reviews of the continuing operation of the Register and its further development. It recalled its observation noted above that the Register had entered a phase where renewed efforts were needed to ensure that it moved forward towards the goal of universal participation and its further development. The Group recommended that the practice of holding periodic reviews should be continued. It also noted that, by 2002, the Register would have completed 10 years of operation, representing a significant achievement which could provide an opportunity to take stock of its operation and address the future development of the Register.

VI. Conclusions and recommendations

A. Conclusions

84. The Group concluded that the United Nations Register of Conventional Arms had made significant progress since its inception in 1992 and that it was entering a period of consolidation, requiring renewed efforts to ensure progress towards

universal participation as well as its further development. It noted that the Register had showed a consistent level of participation over the years and improved quality of information provided by States. Nevertheless, the Group observed that there were wide variations in the level of reporting among the regions, which called for additional targeted efforts at the regional and subregional levels to encourage wider participation.

85. While noting that a large number of States had reported to the Register at least once, the Group reaffirmed the importance of encouraging consistent participation in the Register and of submitting "nil" reports, where applicable, as that helped to provide as complete a picture as possible of the transactions in equipment covered by the Register. "Nil" reports, where applicable, would also help towards achieving the goal of universal participation, as the pattern of reporting since 1992 had shown that a significant number of States were likely to enter a "nil" report in any calendar year.

86. The Group expressed satisfaction with the increased use of the "Remarks" column, indicating designations, models or types of transferred equipment, and concluded that the reports containing such information added qualitatively to the data contained in the Register, thus enhancing its value as a confidence-building measure. It encouraged States to provide such information.

87. The Group stressed the importance of prompt reporting in order to facilitate early dissemination of the data and information for submission to the General Assembly. It concluded that the inclusion of a note verbale together with the reporting forms dispatched by the Secretariat to Member States by the end of January of each year would help to facilitate timely submission.

88. The Group encouraged Member States to provide their official point of contact to the Secretariat for onward dissemination to interested Member States. It concluded that a designated national point of contact could play a significant role in facilitating efficient reporting as well as clarifying issues that might be raised by the data submitted.

89. With regard to the further development of the Register, the Group discussed the question of including procurement through national production on the same basis as for transfers. It reaffirmed the goals of early expansion of the Register and welcomed the voluntary reporting by a number of States on military holdings and procurement through national production.

90. The Group recognized the importance of the principle of transparency and its relevance to weapons of mass destruction. In its consideration of proposals to add a new category to include such weapons, the Group reviewed the nature of the Register, regional security concerns and existing international legal instruments concerning the subject matter, as well as General Assembly resolution 46/36 L. In view of all these factors, particularly taking into account that the Register covered conventional arms only, the Group agreed that the question of transparency in weapons of mass destruction was an issue that should be addressed by the General Assembly.

91. The Group considered a number of adjustments to the existing seven categories, as follows:

- Under category II, the inclusion of armoured combat vehicles which performed reconnaissance, target acquisition, electronic warfare or command of troops, and in addition, battle tanks not covered by category I;
- Under category III, the lowering of the calibre threshold to 75 millimetres;
- Under category IV, the inclusion of aircraft designed or equipped to perform air-to-air refuelling, troop transport, air drop missions and electronic warfare. In addition, the inclusion of other military aircraft not covered by the existing definition;
- Under category V, the incorporation of helicopters designed or equipped to perform troop transport, combat support missions or electronic warfare. In addition, the inclusion of other military aircraft not covered by the existing definition;
- Under category VI, lowering the surface warship tonnage threshold to 400 tonnes;
- Under category VII, lowering the range of missiles to include systems below the present 25 kilometres range, in particular man-portable air defence systems (MANPADS).

As no agreement was reached on any of these adjustments, the Group decided that further consideration should be given to the matter in the next periodic review.

92. The question of the relationship between the existing categories and possible new categories of equipment of conventional arms, including light weapons and small arms, was discussed, as was the way that relationship could be of relevance to the purpose of the Register. The Group took note of the United Nations Conference on Illicit Trade in Small Arms and Light Weapons in All Its Aspects, to be held in 2001.

93. In order to facilitate universal participation as well as the continued development of the Register, as called for by the General Assembly in resolution 46/36 L and subsequent resolutions, the Group concluded that the review process, initiated at the time of establishment of the Register, should be continued. Such a review process was essential to the task of ensuring the continued progress of the Register.

B. Recommendations

94. The Group recommends that:

(a) Member States should participate in the United Nations Register of Conventional Arms with a view to achieving the shared goal of universal participation in that instrument;

(b) Member States should be reminded of the importance of participating in the Register, both in reporting data and information and in making "nil" reports on imports and exports of conventional weapons covered by the Register;

(c) Member States in a position to do so should make use of the "Remarks" column in the standardized reporting form to provide additional data, such as types or models;

(d) Member States should be encouraged to report promptly in order to help ensure the early dissemination to Governments of the data and the information in the reports;

(e) Member States should nominate a national point of contact for matters connected with the Register and details on the contact point should be sent with the annual submission on the understanding that this information will be held by the Secretariat and provided on request to Governments only; furthermore, the Secretariat should maintain an updated list of national points of contact and circulate it to all Member States;

(f) The note verbale which the Secretariat sends annually to the Member States along with the standard reporting forms should also include an attachment for the filing of "nil" returns by States that do not have transfers to report. This attachment should read as follows: "The Government of ..., in reference to General Assembly resolution ..., confirms that it has neither exported nor imported any equipment in the seven categories of the United Nations Register of Conventional Arms for the calendar year ... and therefore submits a 'nil' return." The text of the note verbale should accordingly contain a reference to the attached form for reporting "nil" returns;

(g) The Secretariat should assist Member States, as appropriate, in the implementation of agreed regional and subregional confidence-building measures;

(h) The General Assembly should decide on the appropriate time to conduct a full review of the continuing operation and further development of the Register at an early date;

(i) The General Assembly should consider a provision for additional resources to the Secretariat to operate and maintain the Register and to:

(i) Update the United Nations information booklet on the United Nations Register of Conventional Arms on the basis of the present recommendations and distribute it among the Member States;

(ii) Send a note verbale, with the reporting forms, to Member States by the end of January and reminders, where appropriate, at the beginning of June;

(iii) Ensure that all information relating to the Register is electronically available as soon as possible. The updated United Nations information booklet on the Register should also be made available in the Register web site both as a hypertext linked series of pages and as a downloadable document. The Secretariat should continue to provide the General Assembly with the annual consolidated report of data and information registered, including that provided on a voluntary basis on military holdings and procurement through national production, together with an index of other additional background information. States providing data on military holdings and procurement through national production may request that these data not be published;

(iv) Ensure that all basic data and information relevant to the Register is available electronically in all official languages of the United Nations;

(v) Undertake a study with the assistance of a technical expert to determine the feasibility of electronic filing of national submissions to the Register;

(vi) Develop a separate home page for the Register, using a graphic design for efficient use of the Register data, and establish links between this home page and other comparable registers and data banks established by other international and regional organizations;

(vii) Send complete submissions to capitals and to all permanent missions to the United Nations in electronic form or hard copy, as appropriate;

(viii) Facilitate informal meetings relevant to the Register, such as briefings by the Secretariat on its operation and procedures, in parallel to the meetings of the First Committee;

(ix) Facilitate the holding of regional or subregional workshops and seminars, as appropriate, particularly to encourage greater participation.

Notes

[1] See Official Records of the General Assembly, Forty-seventh Session, Supplement No. 42 (A/47/42).

[2] Ibid., Fifty-first Session, Supplement No. 42 (A/51/42), annex I.

[3] Ibid., Fifty-fourth Session, Supplement No. 42 (A/54/42), annex III.

[4] A/52/312 and Corr.1 and 2 and Add.1 and 2; A/53/334 and Corr.1 and Add.1; A/54/226 and Add.1 and 2.

[5] Official Records of the General Assembly, Fifty-third Session, Supplement No. 27 (A/53/27); ibid., Fifty-fourth Session, Supplement No. 27 (A/54/27).

[6] Returns for the latest calendar year 1999 have not been completed and therefore the data for that year are incomplete.

[7] In the present report the data presented in figures 1 to 6 and tables 1 and 2 reflect submissions by Member States and other participating States as of 4 August 2000. Returns for the latest calendar year 1999 have not been completed and therefore the data for that year is incomplete.

[8] The unofficial list is used only for General Assembly elections.

[9] Force projection refers to the military capacity to transport army and air force units to a distant spot and, if necessary, land them under fire in order to engage a local enemy; and force multiplier refers to any piece of technology that allows a smaller body of soldiers, or a smaller group of tanks, artillery, fighter aircraft, etc., to defeat a larger force of similar type. The definitions were used only as a working basis to facilitate discussion in the Group, and are derived from David Robertson, *Guide to Modern Defense and Strategy* (Detroit, Michigan, Gale Research Company, 1987).

[10] Paragraph 2 (a) of the annex to General Assembly resolution 46/36 L identifies seven categories of equipment on which Member States are requested to supply data to the Register. Based on the adjustments to the annex developed by the 1992 Panel, which were reaffirmed by the 1994 and 1997 groups of experts, the categories and their definitions to be used for reporting to the Register are as follows: battle tanks, armoured combat vehicles, large-calibre artillery systems, combat aircraft, attack helicopters, warships, and missiles and missile launchers.

Inclusive definitions for the categories are presented in appendix I to the present report.

[11] Combat support refers to fire support and operational assistance provided to combat elements; and combat service support refers to support provided to combat forces, primarily in the fields of administration and logistics. For example, in the context of category I, a combat support system could be a bridge layer, while a combat service support system could be an armoured recovery vehicle. These definitions were used only as a working basis to facilitate discussion in

the Group, and are derived from North Atlantic Treaty Organization, Glossary of Terms and Definitions (modified version 01 AAP-6(V)), dated 16 July 1999.

[12] To date, the Convention has been signed by 19 OAS member States, including major conventional arms importers and exporters. The Convention grew out of an OAS resolution adopted in 1997 that stipulated that OAS would consider the desirability of a legal framework to provide advance notification of major arms acquisitions covered by the United Nations Register of Conventional Arms.

[13] In October 1998, members of ECOWAS agreed on a moratorium on the import, export and manufacture of small arms and light weapons in West Africa. Within the framework of the moratorium, they agreed in December 1999 to implement a subregional arms register. The United Nations Regional Centre for Peace and Disarmament in Africa is assisting in this effort within the framework of the Programme for Coordination and Assistance for Security and Development in Africa (PCASED). See also Report of the Meeting of Experts, First Continental Meeting of African Experts on Small Arms and Light Weapons, Addis Ababa, 17-19 May 2000 (SALW/RPT/EXP(I)).

[14] Canada and Japan have agreed to organize a seminar for ARF participants, to be held jointly with an ASEAN member country, and with the participation of the Department for Disarmament Affairs, on "Transparency and Responsibility in Transfer of Conventional Weapons" in early 2001.

[15] As of 4 August 2000.

[16] Co-sponsorship by the Department for Disarmament Affairs was facilitated by a financial contribution from the Government of Japan.

Appendix I

Categories of equipment and their definitions

I. Battle tanks

Tracked or wheeled self-propelled armoured fighting vehicles with high cross-country mobility and a high level of self-protection, weighing at least 16.5 metric tonnes unladen weight, with a high-muzzle-velocity direct-fire main gun of a calibre of at least 75 millimetres.

II. Armoured combat vehicles

Tracked, semi-tracked or wheeled self-propelled vehicles, with armoured protection and cross-country capability, either: (a) designed and equipped to transport a squad of four or more infantrymen, or (b) armed with an integral or organic weapon of at least 12.5 mm calibre or a missile launcher.

III. Large-calibre artillery systems

Guns, howitzers, artillery pieces, combining the characteristics of a gun or a howitzer, mortars or multiple-launch rocket systems, capable of engaging surface targets by delivering primarily indirect fire, with a calibre of 100 mm and above.

IV. Combat aircraft

Fixed-wing or variable-geometry wing aircraft designed, equipped or modified to engage targets by employing guided missiles, unguided rockets, bombs, guns, cannons or other weapons of destruction, including versions of these aircraft which perform specialized electronic warfare, suppression of air defence or reconnaissance missions. The term "combat aircraft" does not include primary trainer aircraft, unless designed, equipped or modified as described above.

V. Attack helicopters

Rotary-wing aircraft designed, equipped or modified to engage targets by employing guided or unguided anti-armour, air-to-surface, air-to-subsurface, or air-to-air weapons and equipped with an integrated fire control and aiming system for these weapons, including versions of these aircraft which perform specialized reconnaissance or electronic warfare missions.

VI. Warships

Vessels or submarines armed and equipped for military use with a standard displacement of 750 metric tonnes or above, and those with a standard displacement of less than 750 metric tonnes, equipped for launching missiles with a range of at least 25 kilometres or torpedoes with similar range.

VII. Missiles and missile launchers

Guided or unguided rockets, ballistic or cruise missiles capable of delivering a warhead or weapon of destruction to a range of at least 25 kilometres, and means designed or modified specifically for launching such missiles or rockets, if not covered by categories I through VI. For the purpose of the Register, this category:

(a) Also includes remotely piloted vehicles with the characteristics for missiles as defined above;

(b) Does not include ground-to-air missiles.

Appendix II

Reporting forms

Annex 1

Standardized form for reporting international transfers of conventional arms (exports)[a]

Exports

Report of international conventional arms transfers
(according to United Nations General Assembly resolution 46/36 L)

Reporting country:

National point of contact:
(Organization, telephone, fax) (For governmental use only)

Calendar year:

A	*B*	*C*	*D*	*E*[b]	*Remarks*[c]	
Category (I-VII)	*Exporter State(s)*	*Number of items*	*State of origin (if not exporter)*	*Intermediate location (if any)*	*Description of item*	*Comments on the transfer*
I. Battle tanks						
II. Armoured combat vehicles						
III. Large-calibre artillery systems						
IV. Combat aircraft						
V. Attack helicopters						
VI. Warships						
VII. Missiles and missile launchers[d]						

National criteria on transfers:_____
The nature of information provided should be indicated in accordance with explanatory notes (e) and (f)

Explanatory notes

(a) Member States that do not have anything to report should file a "nil" report clearly stating that no exports or imports have taken place in any of the categories during the reporting period.

(b) International arms transfers involve, in addition to the physical movement of equipment into or from national territory, the transfer of title to and control over the equipment. Member States are invited to provide with their return a concise explanation of national criteria used to determine when an arms transfer becomes effective. (See paragraph 42 of the annex to document A/49/316.)

(c) In the "Remarks" column Member States may wish to describe the item transferred by entering the designation, type, model or any other information considered relevant. Member States may also wish to use the "Remarks" column to explain or clarify aspects relevant to the transfer.

(d) Multiple-launch rocket systems are covered by the definition of category III. Rockets qualifying for registration are covered under category VII. (See appendix I.)

(e) Check any of the following provided as part of your submission:

	Check
(i) Annual report on exports of arms	_____
(ii) Annual report on imports of arms	_____
(iii) Available background information on military holdings	_____
(iv) Available background information on procurement through national production	_____
(v) Available background information on relevant policies and/or national legislation	_____
(vi) Other (please describe)	_____

(f) When reporting transfers, which of the following criteria, drawn from paragraph 42 of the annex to document A/49/316, were used:

	Check
(i) Departure of equipment from the exporter's territory	_____
(ii) Arrival of equipment in the importer's territory	_____
(iii) Transfer of title	_____
(iv) Transfer of control	_____
(v) Other (please provide brief description below)	_____

Annex 2

Standardized form for reporting international transfers of conventional arms (imports)[a]

Imports

Report of international conventional arms transfers
(according to United Nations General Assembly resolution 46/36 L)

Reporting country:

National point of contact:
(Organization, telephone, fax) (For governmental use only)

Calendar year:

A	*B*	*C*	*D*	*E*[b]	*Remarks*[c]	
Category (I-VII)	*Exporter State(s)*	*Number of items*	*State of origin (if not exporter)*	*Intermediate location (if any)*	*Description of item*	*Comments on the transfer*
I. Battle tanks						
II. Armoured combat vehicles						
III. Large-calibre artillery systems						
IV. Combat aircraft						
V. Attack helicopters						
VI. Warships						
VII. Missiles and missile launchers[d]						

National criteria on transfers:_____
The nature of information provided should be indicated in accordance with explanatory notes (e) and (f)

Explanatory notes

(a) Member States that do not have anything to report should file a "nil" report clearly stating that no exports or imports have taken place in any of the categories during the reporting period.

(b) International arms transfers involve, in addition to the physical movement of equipment into or from national territory, the transfer of title to and control over the equipment. Member States are invited to provide with their return a concise explanation of national criteria used to determine when an arms transfer becomes effective. (See paragraph 42 of the annex to document A/49/316.)

(c) In the "Remarks" column Member States may wish to describe the item transferred by entering the designation, type, model or any other information considered relevant. Member States may also wish to use the "Remarks" column to explain or clarify aspects relevant to the transfer.

(d) Multiple-launch rocket systems are covered by the definition of category III. Rockets qualifying for registration are covered under category VII. (See appendix I.)

(e) Check any of the following provided as part of your submission:

	Check
(i) Annual report on exports of arms	____
(ii) Annual report on imports of arms	____
(iii) Available background information on military holdings	____
(iv) Available background information on procurement through national production	____
(v) Available background information on relevant policies and/or national legislation	____
(vi) Other (please describe)	____

(f) When reporting transfers, which of the following criteria, drawn from paragraph 42 of the annex to document A/49/316, were used:

	Check
(i) Departure of equipment from the exporter's territory	____
(ii) Arrival of equipment in the importer's territory	____
(iii) Transfer of title	____
(iv) Transfer of control	____
(v) Other (please provide brief description below)	____

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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Security Council
Fifty-fifth year

Situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

Note by the Secretary-General**

The Secretary-General has the honour to transmit to the members of the General Assembly the periodic report on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights, in accordance with Commission on Human Rights resolution 2000/26 of 18 April 2000 and Economic and Social Council decision 2000/257 of 28 July 2000. Pursuant to the requests of the Commission on Human Rights and the Council, the report will also be made available to the members of the Security Council and the Organization for Security and Cooperation in Europe.

* A/55/150 and Corr. 1 and 2.

** In accordance with General Assembly resolution 54/248, sect. C, para. 1, this report is being submitted on 9 August 2000 so as to include as much updated information as possible.

00-60214 (E) 061000

Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

Contents

		Paragraphs	Page
I.	Introduction	1–2	4
II.	General observations	3–7	4
III.	Bosnia and Herzegovina	8–43	4
	A. General	9	5
	B. Return and property	10–16	5
	C. Economic and social rights	17–22	6
	D. Civil and political rights	23–28	6
	E. Trafficking and gender-based violence	29–31	7
	F. Human rights institutions	32–33	7
	G. Conclusions and recommendations	34–43	8
IV.	Republic of Croatia	44–71	8
	A. Returns and reconstruction	46–52	8
	B. War crimes	53–56	9
	C. Rights of minorities	57–58	10
	D. Missing persons	59	10
	E. Social and economic rights	60–62	10
	F. Gender issues	63–64	11
	G. Technical cooperation	65	11
	H. Conclusions and recommendations	66–71	11
V.	Federal Republic of Yugoslavia	72–140	12
	A. Relations with authorities	74–75	12
	B. General observations	76–77	12
	C. Crises in Serbia proper	78–96	13
	D. Challenges in Montenegro	97–100	15
	E. Kosovo, one year after the arrival of the Kosovo Force and the United Nations Mission	101–112	16

F. Missing persons and persons deprived of liberty 113 18
G. Early warning: Presevo, Bujanovac, Medvedja 114 18
H. Conclusions and recommendations 115–140 18

I. Introduction

1. This is the fifth comprehensive report on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia submitted by the Special Rapporteur of the Commission on Human Rights, Jiri Dienstbier. It considers human rights developments in the countries of the Special Rapporteur's mandate through mid-July 2000.

2. As they have year after year, the field officers of the Office of the United Nations High Commissioner for Human Rights provided invaluable support to the Special Rapporteur during the past year by providing him with information, facilitating his missions and analysing the human rights situation in the countries of his mandate. He wishes to express his deep appreciation to all of them, as well as to the Governments whose financial support has made the High Commissioner's field activities possible.

II. General observations

3. The Special Rapporteur emphasizes again his view that many of the problems in the countries of his mandate can best be addressed from a regional perspective. This is one of the main reasons for the establishment of the Stability Pact. The Special Rapporteur is concerned, however, that the Stability Pact has not yet succeeded in developing or implementing a strategic global programme for reconstruction and renewal in the Balkans which adds substantially to past attempts to address the situation in the region. Many issues are best addressed from a regional perspective, including the question of refugees and internally displaced persons, the development of civil society and democratic structures, good governance, and the problem of trafficking in human beings.

4. Concerning the return of refugees, difficulties may manifest themselves in different ways in different countries, and even within countries, but the human rights principles involved are fundamentally the same. The countries of the Special Rapporteur's mandate are bound by the same international agreements recognizing the right to return and the same international human rights treaties. This should facilitate interventions by the international community and local and international non-governmental organizations (NGOs). The main challenge is to analyse the legal frameworks relating to return (on such issues as citizenship, property, security, social welfare, education and employment) equally in all the countries of the region.

5. Similarly, a regional approach is useful to address the problem of trafficking in human beings. It has become apparent that trafficking for purposes of exploitative labour, particularly forced prostitution, is one of the most significant human rights concerns in the region. The related practice of the smuggling of migrants is also increasing. Research has shown that the origins of the problem lie in the economic conditions in some countries in the region (though not in the Special Rapporteur's mandate), including Romania, the Republic of Moldova, Ukraine, Bulgaria and the Russian Federation. Bosnia and Herzegovina and Kosovo in the Federal Republic of Yugoslavia are mainly places of destination for trafficked persons, while too little is known of the situation in Croatia to be certain of its place in the process.

6. It is of concern to the Special Rapporteur that none of the countries in the region has taken an approach which stresses the human rights of the victims of trafficking rather than treating them as illegal immigrants and criminals. In Bosnia and Herzegovina, the approach has only somewhat been modified as a result of the interventions of the international community.

7. The creation of a Task Force on Trafficking in Persons in the Stability Pact may yet lead to an organized and coherent approach to what has become one of the most serious issues of human rights concern in south-east Europe.

III. Bosnia and Herzegovina

8. The Special Rapporteur visited Bosnia and Herzegovina from 24 to 26 January and 11 to 15 June 2000. During his visits he met with representatives of civil society, the media, the judiciary and the opposition as well as government authorities. He also met with officials of international organizations, including the High Representative. This report is based on information gathered during his missions as well as by staff of the field office of the United Nations High

Commissioner for Human Rights in Bosnia and Herzegovina.

A. General

9. The current political environment, lack of functioning institutions and a complicated constitutional and legal framework continue to be impediments to any real change in Bosnia and Herzegovina. The Special Rapporteur notes, however, that there has been some improvement and there is more reason for optimism than a year ago. It appears, judging by the municipal elections held in April 2000, that non-nationalistic forces are gaining ground and civil society is increasingly strong. The Special Rapporteur welcomes the establishment of the State Border Service as well as the Ministry of Human Rights and Refugees within the Council of Ministers as signs of the strengthening of the State of Bosnia and Herzegovina. Recent progress made in Mostar, which the Special Rapporteur visited in June 2000, in unifying the structures of this divided city show that progress is possible with the passing of time and determined efforts by the international community.

B. Return and property

1. Right to return

10. Nearly five years after the war's end, over 1 million refugees and displaced persons are still waiting to return to their pre-war homes or for any other form of durable solution. The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), signed in December 1995, guaranteed refugees and displaced persons the right to return to their pre-war homes in safety and with dignity. However, violations of the rights to return and to property remain by far the most pervasive of human rights violations in Bosnia and Herzegovina.

11. Obstacles range from lack of adequate security to delays in property law implementation and lack of reconstruction assistance. Although incidents of violence and harassment continue, the most intractable problem is the non-sustainability of return — returnees simply are not provided the basic necessities to survive. The solution to this can only be more effective respect for the social and economic rights of returnees, in particular the rights to housing, pensions, employment, education and health care.

12. According to a study by the Office of the United Nations High Commissioner for Refugees (UNHCR) of the situation of recent returnees, several areas of concern predominate. An extremely low percentage (3 per cent) of interviewees had secured employment since their return, while a correspondingly high percentage indicated re-employment to be their chief concern. Of interviewees who believed they were eligible for pensions, 34 per cent had been unable to secure them. Twenty-six per cent indicated they had poor access to electricity, telephones and/or water.

13. Specific obstacles facing displaced and returnee women were identified in another report prepared by UNHCR (in cooperation with the Office of the High Commissioner for Human Rights), issued in May 2000. It was found that women's fear of returning (whether or not justified) was often compounded by the lack of familial or community support, or by psychological trauma. The report recommended that serious efforts be made to ensure that vulnerable women are not forgotten, including with respect to the allocation of alternative accommodation or unclaimed apartments.

2. Right to property

14. On 27 October 1999, the High Representative, Wolfgang Petritsch, imposed amendments to the property laws, harmonizing the laws between the two entities. At the same time, he imposed laws enforcing decisions of the Commission for Real Property Claims of Displaced Persons and Refugees. This marked the beginning of a strong international push to ensure enforcement of citizens' rights to the repossession of their apartments, houses and other property — a necessary precondition for return.

15. The Special Rapporteur notes that owing to these actions and continuous international pressure, some progress has been observed. Almost every municipality has begun to implement the laws, even previously "hard-line" places. This progress was confirmed by recent UNHCR figures on registered minority returns. Between January and April 2000, 11,445 people returned to their homes in areas in which they now are minorities, which is roughly triple the number that returned last year during the same period. However, the process is still moving too slowly.

16. Until April, 211,850 claims for the return of apartments and private property had been submitted to domestic bodies in the whole of the country, according to official figures. However, only 23,801 claims had been successfully resolved. If the process continues at this pace, it will take 15 years to finish.

C. Economic and social rights

1. Employment rights

17. Discrimination in employment is a serious concern in Bosnia and Herzegovina which has a major impact on the sustainability of returns. The critical economic situation affects all groups of the population and should not serve to justify the existence of discrimination. Members of ethnic minorities and returnees in general are most vulnerable to exclusion from employment.

18. Laws prohibiting discrimination are a first step towards its prevention and elimination. The Federation Law on Labour Relations, adopted in 1999, contains a comprehensive anti-discrimination provision, while a reform of the Law on Labour Relations in the Republika Srpska is under way and should incorporate a similar article. Beyond these legal guarantees, however, more concrete and dissuasive measures must be encouraged and adopted to ensure the effective establishment of a fair employment policy throughout the country.

2. Right to education

19. The major problem in the education system is the effective division of the education system along ethnic lines. There have been several cases of physical segregation, where minority children have not been allowed to use school premises. Following direct intervention from the international community, some crises were solved; thus, the primary schools of Stolac and Vares are now shared by Croat and Bosniak returnee children. In many other areas, however, segregation continues.

20. Regarding textbooks and curricula, the Special Rapporteur notes that some progress has been made on the removal of offensive and discriminatory material from textbooks, but this needs to be followed by further steps to ensure that textbooks eventually meet European standards. The signing of the Declaration and Agreement on Education in May 2000 was a welcome step.

3. Right to the highest attainable standard of health

21. A number of factors negatively affect the health of the overall population in Bosnia and Herzegovina, impacting more severely on access to health care by vulnerable groups and the poor. Indeed, the current health system increases disparities since it is highly compartmentalized and replicates the constitutional divisions set out in the Dayton Agreement. Since there is no legal provision regarding coordination on health matters between the two entities, uneven distribution of medical care negatively affects the accessibility and cost of health services for all.

22. The fragmentation of the health system also hampers the collection and exchange of statistics, which in turn prevents the determination of efficient health policy. Funding for health insurance is also a concern. In the Federation, the health insurance law places most financing responsibilities with the cantons, but in practice, insurance funds do not have sufficient risk pools for the efficient provision of health care, so poorer cantons are exposed in a disproportionate way to unaffordable costs.

D. Civil and political rights

1. Right to life and security of person

23. Return-related incidents of violence have continued to be reported in some parts of the country. It is of serious concern that, with very few exceptions, there continues to be impunity, with perpetrators of attacks against returnees in most cases not identified, arrested or prosecuted.

24. The Special Rapporteur regrets to report that mine accidents have continued to take the lives of innocent victims, including children. At least 16 people were killed during spring and summer 2000. According to the Mine Action Centre, an estimated 1 million mines remain hidden in Bosnia and Herzegovina. Mine-clearance efforts need to be redoubled and sufficient funding allocated to mine-clearance activities, including education of children and returnees.

2. Rule of law and administration of justice

25. The basic picture of the entity police forces is unchanged. They remain overwhelmingly mono-ethnic, and continue to have unacceptably low numbers of female officers. The response of local police remains inadequate in many respects, most notably in investigations of return-related or ethnic violence as well as incidents of gender-based violence. Political interference in the work of police and the judiciary continues.

26. The United Nations Mission in Bosnia and Herzegovina (UNMIBH) undertook in late 1999 to register and authorize all law enforcement personnel in an effort to create transparency of the personnel exercising police powers. All police officers were registered and then subjected to background checks, and only those meeting the minimum requirements were authorized to exercise police powers. UNMIBH has also initiated several projects to ensure adequate minority representation in the police forces. Despite these efforts, however, progress has still been unsatisfactory.

3. War crimes and missing persons

27. The Special Rapporteur welcomes the continued apprehension by the Stabilization Force (SFOR) of indicted war criminals. It is also worth noting that the so-called "rules of the road" agreement, whereby no arrests on war crimes charges are to be carried out by national authorities before the International Tribunal for the former Yugoslavia has reviewed the file, has continued to be respected. The Special Rapporteur remains concerned at the lack of domestic prosecution of war crimes, as the Tribunal will not be able to deal with all perpetrators still at large in Bosnia and Herzegovina. However, measures will first have to be taken to ensure security for the courts and for witnesses, especially the victims of war crimes.

28. The Special Rapporteur would like to reiterate the need to clarify the fate of the almost 20,000 missing persons. He welcomes the impetus given to the identification of mortal remains by the United States of America in establishing laboratories for DNA testing. In addition, the protection of the economic and social rights of the families of missing persons needs to be given a higher priority, especially with regard to return and reintegration, health services and housing.

E. Trafficking and gender-based violence

29. It is of serious concern to the Special Rapporteur that Bosnia and Herzegovina has emerged as a significant destination point for women trafficked from Eastern Europe. There is growing evidence also that the country is serving for transit purposes and is becoming a country of origin.

30. In May 2000, UNMIBH and the Office of the High Commissioner for Human Rights released a joint report on trafficking in Bosnia and Herzegovina. The report explained the work of the international community to respond to the growing problem of trafficking. Between March 1999 and March 2000, 40 cases of trafficking or possible trafficking in persons, involving 182 women, were identified by UNMIBH. However, many other women in similar circumstances, who did not wish assistance, were also identified. According to the report, State authorities usually act to prosecute victims rather than to protect their rights. In legal proceedings, victims are often denied right to counsel and the services of a translator. In general, authorities do not appear fully to understand the complexities of the trade in human beings or its scope. However, there appears to be evidence that some law enforcement and other authorities wish to learn more about the issue.

31. Disturbing reports of police inaction in cases of domestic violence and sexual assault continued to be received by the United Nations International Police Task Force and local women's organizations. This highlights a lack of gender sensitivity and professionalism in law enforcement agencies.

F. Human rights institutions

32. The Special Rapporteur notes that there has been a trend towards greater implementation of decisions of the Human Rights Chamber and the Ombudsperson, although implementation rates are still little better than 50 per cent. Moreover, the entities have still not offered any assurance that the thousands of remaining property cases can be resolved within a reasonable time.

33. In April 2000, the first three Ombudsmen for the Republika Srpska were appointed following the adoption in February of a law establishing a multi-ethnic Ombudsman institution. The new institution will

investigate violations of human rights in the Republika Srpska and make recommendations for change.

G. Conclusions and recommendations

34. The Special Rapporteur strongly recommends an active and visible policy of mainstreaming a gender perspective into all policies and programmes, in particular regarding return, by international actors and local governments in order to assess the impact of decisions on women and men respectively.

35. While noting the need to continue to support minority returns, other durable solutions — such as local integration and settlement — will need to be found for those unable or unwilling to return.

36. The Special Rapporteur urges responsible authorities to immediately take measures to improve and accelerate the process of property-law implementation. The authorities also need to identify and create more alternative accommodation for those, often the most vulnerable, in need of it or entitled to it by law.

37. Officials and politicians should set an example by moving themselves out of other people's property which they occupy.

38. Republika Srpska authorities should, like the Federation authorities, adopt a law on labour relations introducing a comprehensive anti-discrimination provision. The authorities should ensure that discriminatory practices are severely sanctioned.

39. International assistance, particularly investments, should be subjected to the principle of conditionality upon verification of fair employment practices. A monitoring system should be established to check implementation of fair employment practices and to put pressure on employers who fail in their obligations.

40. In light of inequities in accessing health care, strategies should be elaborated to address the main problems by, inter alia, reviewing current health legislation as well as expenditures on health care. Adequate means should be found to ensure non-discrimination in policy and practice.

41. The Special Rapporteur calls on the authorities to implement the Declaration and Agreement on Education signed in May 2000.

42. The State must take responsibility for combating trafficking in persons, including by taking a rights-based approach which ensures that economic policies address the needs of potentially vulnerable groups.

43. There is a continuing need to train local and international police on human rights in general and on gender in particular.

IV. Republic of Croatia

44. The present report considers human rights developments in Croatia from March to early July 2000, paying special attention to the key issues of refugee returns, minority rights and war-crimes trials. It is based on information compiled from a variety of sources by the Office of the United Nations High Commissioner for Human Rights staff in Zagreb. The Special Rapporteur wishes to extend his appreciation, once again, to the authorities of the Republic of Croatia for their continuing cooperation with the High Commissioner's Office in Zagreb.

45. From 25 to 27 April, the Special Rapporteur conducted his fifth official visit to Croatia. He met with the President of the Republic, Stjepan Mesic, senior figures of the Government of Croatia, diplomats, and heads of international organizations. The Special Rapporteur wishes to express his satisfaction with recent political developments and with the political will for change shown by the Government as well as by President Mesic. He hopes that Croatia will not lose the momentum it has gained. The Government has moved quickly to establish cooperation with the Tribunal, but issues such as tenancy rights, property restitution, and reconstruction assistance are much more difficult to resolve, particularly at the local level.

A. Returns and reconstruction

46. According to international observers, some 6,000 Croatian Serb refugees, or roughly 1 per cent of the pre-war population, reportedly returned to Croatia in the first half of 2000 under the Government's Programme of Return. While the precise number of spontaneous returnees is difficult to determine — since many choose to return to their former homes and then leave after settling their affairs — the estimated combined figure for organized and spontaneous returns

for the first half of 2000 shows a three-fold increase over figures for the same period last year.

47. On 1 June, Parliament ratified amendments to the Law on Reconstruction, repealing discriminatory provisions against minorities and potentially allowing access to reconstruction assistance for all returnees, regardless of ethnicity. Nevertheless, the Special Rapporteur notes that the implementing instructions accompanying the Law, in fact, reinstate "priorities" that place returnee Serbs, once again, at the bottom of the list for reconstruction assistance.

48. On 14 July 2000, the Parliament adopted the law on amendments to the law on areas of special state concern. Included in the new law is a provision that property allocated for temporary use to (mostly Croat) refugees from Bosnia and Herzegovina should be returned within six months of the owner's request, with the temporary occupant to be relocated elsewhere. If this cannot be accomplished, the Government is obliged to sign a lease contract with the owner whose house is occupied. The Special Rapporteur believes that the adopted amendments bring some positive changes by enlarging the categories of beneficiaries to now include all members of the population who inhabited those areas before the war and extends its scope of application to the Danube region. The Special Rapporteur also commends the Croatian State for acknowledging, under this law, that all occupancy-rights holders who fled during the war are entitled to some measure of benefit. Nonetheless, the Special Rapporteur is concerned about the fact that this amendment fails to set up a final date for the restitution of the property to the owners, who are left in uncertainty as to the date of repossession, and the temporary occupant can de facto remain indefinitely in the property rented by the Government.

49. Despite the foregoing, the Special Rapporteur believes that progress on returns has still been slow. It is important that the Government take clear positions on the return issue and address them, particularly at the local level, to ensure that returns actually take place. This will not be easy, as local political structures are controlled mainly by the former ruling party and may remain in place at least until local elections in April 2001.

50. The Special Rapporteur is concerned over several incidents, such as the appearance in spring 2000 of posters in towns where returns were to occur listing the names of alleged Serb war criminals, which have a deterrent effect on returns. Hate speech and demonstrations instigated by extremist groups — such as protests in Gospic against the presence of an exhumation team from the Tribunal — are also major causes of fear and uncertainty.

51. The Special Rapporteur emphasizes again the importance of respecting property rights as a key to resolving the issue of returns. The Government should press forward with evictions of illegal occupants of Serb-owned houses while also ensuring the rights of these temporary occupants. Lack of progress in these cases is slowing down Serb refugee returns. The Special Rapporteur also believes that without better respect for property rights, there will be no foreign investment in Croatia.

52. In April, some 300 houses damaged during the 1991-1995 war were demolished in a predominantly Serb area of Gospic. These houses, which were abandoned and not up for reconstruction, had been assessed and recategorized as severely damaged and therefore hazardous to safety. After alleged warnings from the Public Health Service and the Building Inspectors, the county organized the demolition of these houses. However, the prefect of Gospic county admits that proper administrative procedures were not followed by local authorities. The owners of the demolished houses were not notified, either about the procedure or the date of demolition, or about entitlements to compensation or reconstruction assistance. It is important to establish proper procedures to avoid repeating this error during the demolition process in other parts of Croatia, such as in Lika-Senj county where some 600 houses were slated for destruction this year. The Deputy Prime Minister for social and political affairs, Zeljka Antunovic, promised that a list of names of the owners would be published post factum in the Official Gazette of the Republic of Croatia.

B. War crimes

53. War-crime prosecutions of ethnic Serbs are ongoing, and the Special Rapporteur again calls attention to the lack of fairness in most of these proceedings. Many prosecutions are based on group indictments which fail to specify individual criminal acts and often, individuals belonging to groups are tried in absentia. In a recent case in Vukovar, 22

individuals were under indictment but only one was present at trial. While individuals tried in absentia have a right to retrial, the practice of in absentia proceedings is troubling. The Office of the High Commissioner for Human Rights has observed that retrials may not be fair as it is often presumed that the defendant is guilty unless he or she can prove innocence. In the recent *Sodolovci case*, the judge in the retrial was the same judge who had earlier convicted the group in absentia. War-crime proceedings that violate basic fairness contribute to uncertainty in the Serb community and have a negative impact on the return process.

54. On a positive note, the recent acquittal of the five Serb defendants in the *Sodolovci case* (described in previous reports) was encouraging. The court clearly rejected the notion of collective responsibility of persons of Serb ethnicity for violations of international humanitarian law committed in Croatia during the 1991-1995 conflict. The decision could have far-reaching consequences as it may begin to ease concerns of Serb refugees who, until now, saw no guarantee of the right to a fair trial in domestic war-crime prosecutions.

55. In the ruling of the Osijek County Court on 7 July 2000, all members of the "Sodolovci group" were acquitted on the basis of insufficient evidence. Proceedings in the case had begun in 1994 and were severely criticized as violating international standards. The Supreme Court overturned the initial guilty verdicts and returned the case to the lower court, citing procedural irregularities and rejecting the notion of collective responsibility. The Court emphasized that the reasoning of the lower court had assumed a priori collective responsibility for war crimes by all participants in the armed rebellion, namely Serbs, for all crimes committed during the aggression, regardless of evidence of their personal responsibility.

56. In the retrial of Mirko Graorac, also reported previously, the defendant was pronounced guilty in June of war crimes committed against prisoners of war and civilians in 1992 while he was a commander at the Manjaca camp in Banja Luka, Bosnia and Herzegovina. Sentenced to 15 years' imprisonment, he will reportedly appeal. It will be recalled that Mr. Graorac was tried in 1996 and sentenced to 20 years' imprisonment in proceedings that were held to be unfair by international observers.

C. Rights of minorities

57. The Special Rapporteur notes the adoption by Parliament of laws dealing with the rights of minorities, including draft laws on minority languages and script and on education. Parliament has also adopted amendments to the draft constitutional law on the rights of minorities, affecting the right to political representation. While the first two laws are positive attempts to protect minority rights, the Special Rapporteur regards the third law — including its swift adoption — as cause for concern for taking away several basic privileges of the Serb community.

58. The Special Rapporteur notes that although Parliament adopted the law, it requested the Government to draft an integral constitutional law on minorities within six months, under the auspices of the Ministry of Justice and in consultation with the Council of Europe's Venice Commission.

D. Missing persons

59. The missing persons issue is a key factor in the peace and reconciliation process in Croatia and remains a pressing human rights concern. Much remains to be accomplished. For example, the Danube Subcommission on Missing Persons, constituted in 1999, is still not fully functional. Also, the Special Rapporteur notes that the Government Commission on Detained and Missing Persons has not, so far, shown any initiative either to put the names of Croatian citizens of Serb ethnicity — gone missing during the war, especially during and after 1995 army operations — on official Croatian lists of missing persons, or to assist in determining their fates.

E. Social and economic rights

60. The Special Rapporteur is deeply concerned over the difficult financial situation in Croatia. He notes the dire need for investment to improve the standard of respect for social and economic rights and to implement measures assisting vulnerable groups.

61. The Special Rapporteur notes the attempts by the Government to amend legislation to better protect the rights of workers.

62. Various sources indicate that the percentage of the unemployed in Croatia is between 18 and 20 per

cent, including some 4 per cent working in the shadow economy without social or economic rights. Reports indicate that there will be further unemployment owing to bankruptcies. Unemployment assistance is reportedly insufficient to protect the unemployed. Meanwhile, some 150,000 to 200,000 persons are working without regular payment of wages. The Special Rapporteur is concerned over the backlog of labour lawsuits in the courts, the majority of which concern unpaid wages.

F. Gender issues

63. The Special Rapporteur is pleased to note that his earlier recommendations in the area of gender are being implemented. Even though the number of women in the legislature increased substantially from 7 per cent last year to nearly 21 per cent in 2000, due consideration could also be given to including more of the broad pool of capable women professionals in Croatia in the country's public life, especially at the more senior levels.

64. The Special Rapporteur commends the initiative of the State Commission for Gender Equality Issues to introduce changes into legislation to better protect women and children, including with respect to domestic violence. He welcomes the Commission's efforts to promote gender issues on the country's public agenda and mainstream gender into Croatian society. The Special Rapporteur also welcomes Croatia's signing of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

G. Technical cooperation

65. Various ministries of the Government of Croatia have responded to the technical cooperation project of the Office of the High Commissioner for Human Rights with interest and initiative. Between March and June 2000, the Office organized a workshop on gender discrimination and violence against women for judges and prosecutors, in cooperation with the Ministry of Justice. It has also trained police officers, in cooperation with the Ministry of the Interior, and funded the translation into Croatian of the United Nations manual *Human Rights and Law Enforcement*. Together with the European Law Students Association, the Office organized two human rights round-table discussions in Zagreb. A second annual summer school for senior law students, organized by the Office was held from 17 to 28 July in Dubrovnik.

H. Conclusions and recommendations

66. Despite remarkable political changes this year, Croatia continues to fall short of meeting some of its human rights obligations. The Special Rapporteur calls upon the Government to address, as a matter of priority, the slow pace of return of internally displaced persons and refugees; the restitution of property; lack of respect for international standards of fairness in war-crimes proceedings; and delays in resolving the issue of missing persons.

67. The Special Rapporteur observes that the coming months will be crucial for Croatia to take advantage of the momentum which has already been gained and to facilitate the swift return, in safety and dignity, of all refugees and displaced persons to their homes.

68. The Special Rapporteur recommends the full use of the tripartite Croatian Economic and Social Council, comprising representatives of the Government, trade unions and employers, in legislation-making and implementation as well as in social dialogue. He recommends further revisions of labour and other legislation to improve the social and economic situation of the Croatian population, especially pensioners.

69. The Special Rapporteur reiterates his earlier calls for unbiased search criteria in resolving cases of missing persons. The fate of Croatian citizens of Serb ethnicity who went missing during the war should be treated with equal concern.

70. The Special Rapporteur would like to stress again that the emphasis in domestic war-crime prosecutions should be on bringing all perpetrators to justice, regardless of ethnicity. Future investigations and trials should take place with international participation, thus helping to ensure transparency and a process that reassures the Serb population that war-crime prosecutions transcend victor's justice. The Special Rapporteur also recommends that the practice of in absentia prosecutions be abolished.

71. The Special Rapporteur welcomes the signing in New York on 6 June 2000 of an agreement on cooperation between the Government and the High

Commissioner for Human Rights, setting out the legal status of the Office of the United Nations High Commissioner for Human Rights in Croatia. The Special Rapporteur also commends the excellent cooperation between the Government of the Republic of Croatia and the Office and the agreement between the Office and the City of Zagreb to establish a Human Rights Documentation Centre in premises provided by the Government in the centre of the city.

V. Federal Republic of Yugoslavia

72. Since submitting his last report to the General Assembly in November 1999 (A/54/396/Add.1-S/1999/1000/Add.7), the Special Rapporteur has conducted two additional missions, together with staff of the Office of the United Nations High Commissioner for Human Rights, to the Federal Republic of Yugoslavia, travelling to many localities throughout the country. He visited detainees under the jurisdiction of the Serbian Ministry of Justice in Pozarevac and others held by the United States contingent of the Kosovo Force (KFOR) at the Bondsteel base outside Urosevac/Ferizaj in Kosovo. During his last visit, the Special Rapporteur also met with many individuals who have personally been the subject of serious human rights violations.

73. The Special Rapporteur's findings for the period from October 1999 to March 2000 were reported to the Commission on Human Rights in April 2000 (E/CN.4/2000/39). The present report considers the situation of human rights from March to mid-July 2000. Given the pace of developments throughout the Federal Republic of Yugoslavia, it is possible that elements of this report will be superseded by events before the document is published. Therefore, simultaneously with the presentation of this report the Special Rapporteur will once again update the General Assembly on developments within the Federal Republic of Yugoslavia.

A. Relations with authorities

74. Since his appointment in 1998, the Special Rapporteur has enjoyed the cooperation of the Federal Ministry for Foreign Affairs in carrying out his visits to the Federal Republic of Yugoslavia. He also has benefited from the cooperation of the Serbian Ministry of Justice as well as municipal authorities in Serbia, including in Nis, Presevo and Bujanovac. In Montenegro, the Special Rapporteur wishes to acknowledge the cooperation of republican ministries and other bodies in Montenegro, including the Ministry of Foreign Affairs, the Ministry for Protection of National Minorities and the Ministry of Justice, as well as various municipal authorities.

75. The Special Rapporteur has carried out frequent missions to Pristina and elsewhere in Kosovo. Since the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK) he has enjoyed the cooperation of the Special Representative of the Secretary-General, Bernard Kouchner, as well as of KFOR, the Federal Republic of Yugoslavia Committee for Cooperation, and the leadership of local political parties. Municipal authorities in Kosovo, including in Dragash and Kosovska Mitrovica, have greatly assisted the work of the Special Rapporteur.

B. General observations

76. The Special Rapporteur notes that authorities in Belgrade, Podgorica and Pristina at present have little or no contact with each other. The three effective component parts of the Federal Republic of Yugoslavia are developing distinct systems of law and regulation as well as separate financial systems and foreign policies. Freedom of movement is so severely restricted that few individuals move from one component to another, except in flight as internally displaced persons. Other serious human rights concerns in the Federal Republic of Yugoslavia include violations of the right to personal security, widespread allegations of ill-treatment in custody, lack of due process, failure of the administration of justice, discrimination based on ethnic or national origin, and threats to freedom of expression, conscience and assembly. Killings and involuntary disappearances occur regularly, and the period covered by this report saw a proliferation of political assassinations throughout the territory of the Federal Republic of Yugoslavia.

77. The Special Rapporteur observes that groups vulnerable to violations of basic human rights now comprise the majority of the population of the Federal Republic of Yugoslavia. These include individuals belonging to national minorities, women, children, refugees, internally displaced persons, the elderly,

detainees, members of non-governmental organizations, persons who have refused to participate in military service, media representatives and persons associated with opposition views. Trafficking of persons — women, children, asylum-seekers — has also increased as a result of the long-standing regional human rights crisis.

C. Crises in Serbia proper

78. The Special Rapporteur observes that Serbia faces increasingly grave and violent violations of human rights and fundamental freedoms in the absence of rule of law and due process. Federal and republican authorities use the legal and judicial systems to legitimize political repression and criminalize opposition activity, civil society and the expression of dissent. Measures taken against lawyers and judges inhibit the rights to fair trial and due process. There is widespread lack of respect for the most basic rules of legal procedure and an increased manifestation of State terror.

1. Freedom of expression

79. Many political rallies have been held during the reporting period. In most instances the authorities did not intervene and demonstrations remained peaceful. However, the right of persons to associate freely to express opposition to the ruling parties has been seriously restricted. Throughout Serbia, opposition activists have been arrested, detained and threatened with prosecution. In many instances, allegations of ill-treatment at the hands of police and State Security have been reported.

80. The following political leaders have been detained, visited by police or summoned to court since March 2000: Nenad Canak, President of the League of Social Democrats of Vojvodina; Mile Isakov, President of the Vojvodina Democratic Reforms Party; Vuk Obradovic, President of the Social Democratic Party; Vladan Batic, President of the Democratic Christian Party of Serbia; Svetislav Basara, Vice-President of the Democratic Christian Party of Serbia; Veljimir Ilic, Mayor of Cacak and President of the New Serbia Party (sentenced in absentia in May to a five-month prison term); Milan St. Protic, Vice-President of New Serbia and coordinator of the Alliance for Changes (charged with libel by Deputy Serbian Prime Minister Milovan Bojic following the public reading of a mock indictment); Zoran Djindjic, President of the Democratic Party; Dragan Milovanovic, President of the Independent Trade Union; Riza Halimi, Mayor of Presevo (sentenced in March 2000 to a five-month prison term); Zoran Zivkovic, Mayor of Nis and Vice-President of the Democratic Party, faces charges before the military court in Nis and the civilian court of Bor. Of particular concern, on 15 June 2000 another attempt was made on the life of Serbian Renewal Movement President Vuk Draskovic. A week earlier, Serbian authorities had detained four of his bodyguards under the pretext that their weapon permits, issued in Montenegro, were not valid in Serbia. The bodyguards were still in detention at the time of the assassination attempt.

81. The Special Rapporteur also notes with concern the mass detention of opposition party members. For example, the Democratic Party reported that 75 members were detained for questioning by police between 16 and 29 May 2000 alone; the League of Social Democrats of Vojvodina reported 147 members detained by police since 1 March 2000; and the Serbian Renewal Movement reported 135 members detained in the first half of the year.

2. Freedom of association, personal security and due process

82. Mass arrests and detentions of civil sector actors began throughout the Republic of Serbia after events in Pozarevac in early May. On 2 May 2000, a legal practitioner and two activists of the organization Otpor were arrested after being brutally beaten by a group of persons, including an armed guard, associated with a local discotheque owned by Marko Milosevic, son of President Milosevic. Momcilo Veljkovic, Radojko Lukovic and legal practitioner Nebojsa Sokolovic were hospitalized in police custody. They were detained for more than six days before being heard and eventually released by an investigating magistrate. Mr. Veljkovic and Mr. Lukovic were then rearrested the same day on charges of attempted murder. Mr. Sokolovic remains at large. The investigating magistrate, Bosko Papovic, who opposed bringing charges against the three, resigned in protest and was formally relieved of duty by the Serbian Parliament. District public prosecutor Jovan Stanojevic also resigned in protest and was relieved of duty. The court then held that the detainees presented a danger to the public and remanded them to

continuing custody until 30 June 2000, when they were formally accused of attempted murder.

83. Throughout Serbia, more than 600 Otpor activists, including minors, have been detained and interrogated by police. Many have been arrested for distributing materials, putting up posters and similar "offences". The Special Rapporteur draws attention to the case of Vladimir Stojkovic, detained in Leskovac beyond the legal time limit. On 27 May 2000 he emerged from detention with injuries to his legs and head. An investigative order charges him with calling for overthrow by force of the highest organs of power ... with the intent of damaging the constitutionally determined State and social order.

84. On 9 June, the Federal Ministry of Justice denied Otpor's application to be entered in the registry of associations, public organizations and political organizations. An appeal of the decision was filed with the Supreme Court on 30 June.

85. Non-governmental organizations have been the target of searches, financial inspections and confiscations, often in violation of legal procedure. Among those subject to the sweep have been Women in Black, the Centre for Antiwar Action, the Helsinki Committee for Human Rights in Serbia, the Forum for Ethnic Relations (all in Belgrade); the Committee for Human Rights in Leskovac, and the Civic Initiatives Committee in Nis. Some members of non-governmental organizations have been called for "informative" talks and their apartments have been illegally searched. In some cases they have reportedly been physically ill-treated by State Security.

3. Freedom of expression

86. The Special Rapporteur expresses grave concern over increasing violations of freedom of expression. While the constitutionality of the Serbian Law on Public Information is being challenged before the Constitutional Court, the Law remains the authorities' instrument of choice to silence media. Fines totalling 30 million dinars have been imposed, mainly against print media, since its adoption.

87. The Special Rapporteur observes that the most recent campaign against freedom of expression increasingly uses force to deprive journalists of their liberty and media businesses of their property. It includes mass arrests of journalists. During the month of May alone, 37 journalists were arrested or detained by police throughout Serbia, many described beatings by police. In Pozarevac in early May, three journalists from the *Danas* newspaper were taken by police from apartments in the middle of the night; the Office of the High Commissioner for Human Rights intervened to locate and help release them from arbitrary detention. The Independent Association of Journalists of Serbia has issued three book-length reports on repression against the media in Serbia since the start of the year.

88. On 17 May 2000, the Government of the Republic of Serbia forcibly took over Belgrade radio and television Studio B. Republican authorities claimed that Studio B had been calling for the overthrow of the Government. Together with interruption of TV Pancevo broadcasts, the takeover of Studio B ended dissenting radio and television broadcasting in Belgrade.

89. In connection with the Pozarevac case, Kraljevo journalist Miroslav Filipovic was arrested on 8 May 2000. Accused of espionage by civilian authorities, Mr. Filipovic's case was turned over to the Military Court of Nis, which originally saw no grounds to extend his detention and released him on 12 May. Mr. Filipovic was again called before the Nis Military Court on 22 May on allegations of espionage and dissemination of false information and was remanded into custody for 30 days. Indicted under those charges on 14 June 2000, at this writing, he remains in detention awaiting trial. All appeals for his release, including that of the Special Rapporteur, have so far been denied. The accusations carry a maximum sentence of 15 years.

90. Bankruptcy proceedings against ABC Produkt raise serious concerns regarding the dissemination of independent information in Serbia. ABC Produkt prints all major independent media in Serbia and has been repeatedly fined large amounts, but has always managed to pay them. On 26 June 2000, after freezing ABC Produkt's bank account, the Belgrade Higher Commercial Court ordered ABC Produkt to vacate its premises. Declaring ABC Produkt bankrupt could end independent written press in Serbia.

91. The Special Rapporteur observes that the campaign against freedom of expression also extends to writers. Criminal proceedings against author Boban Miletic for allegedly insulting the reputation of the President of the Federal Republic of Yugoslavia in a book of aphorisms several years ago ended with a guilty verdict in the district court of Zajecar and a prison term of five months.

4. Measures against lawyers and judges

92. At this writing, at least nine lawyers were being prosecuted before Serbian courts. Lawyers were among those detained and ill-treated in the mass arrests described above. Meanwhile, on 12 July the Serbian Parliament relieved 13 court officials, mostly judges, of duty. The officials, like three senior judges similarly relieved in December 1999, were noted for their independence and impartial application of law and procedure.

5. Right to due process

93. The rights to due process and to fair trial are seriously violated by all the proceedings described in this report. During a recent mission to the Federal Republic of Yugoslavia, the Special Rapporteur drew attention to the case of Vladimir Nikolic, whose case before the Belgrade district court on New Year's Eve 1999 contained numerous violations of due process, including the court's delivery of a guilty verdict on a charge that was neither brought nor tried.

94. In his previous reports, the Special Rapporteur has expressed grave concern over the unfounded arrest, ill-treatment, torture, arbitrary detention, denial of due process, and unfair trials of the thousands of Kosovo Albanians deprived of liberty as a result of the Kosovo crisis. The recent Djakovica-Gjakove trial indicates that Kosovo Albanians are still selected for harsh treatment. In Nis, 144 persons taken into custody last year went on mass trial. During nine days of hearings, a Serbian Ministry of the Interior official, Rade Vlahovic, testified that police had no warrants or orders to detain any specific person, but to detain all men of military age. Other prosecution witnesses stated that there were flaws in the evidence and that it was impossible to relate it to any specific individuals. Despite those admissions, and a total absence of evidence on the charges brought, guilty verdicts and sentences ranging from 7 to 13 years were pronounced against each of the accused.

95. In pronouncing sentence on all defendants, Judge Goran Petronijevic announced that the court deemed it "unnecessary" to establish individual responsibility for the alleged acts. The Special Rapporteur concurs with one defence attorney who concluded that the State detained, arrested, tried and sentenced the accused "only because they are Albanian".

6. Codification of practice

96. A draft law on terrorism was tabled before the Federal Assembly at the end of June 2000. Although since withdrawn for reconsideration, the legislation would legitimize treatment of any form of opposition and dissent as a threat to the constitutional order of the State. It includes an effective licence to kill, as acts committed by persons on purported grounds of preventing a terrorist act are explicitly not characterized as criminal. Moreover, all proceedings from the moment of detention are deemed a State secret.

D. Challenges in Montenegro

97. The Special Rapporteur notes that the Republic of Montenegro faces many problems typical of a society in the initial stage of transition to democracy and a market economy. Although human rights and fundamental freedoms are generally respected, lack of knowledge of some international standards, corruption, red tape and some traditional factors impede the efforts of Montenegrin authorities to bring human rights observance in line with international standards.

98. The genuine political will and determination of Montenegrin authorities to sustain a multi-party, multi-ethnic and market-oriented democracy should be encouraged by the international community. International response and assistance to those efforts are already visible but still insufficient. The difficult environment in which they take place should be taken into account: the deepening constitutional crisis in the Federal Republic of Yugoslavia, tensions between Podgorica and Belgrade, and the activity of the Second Army on the territory of Montenegro. Since Belgrade excluded representatives of Montenegro's elected majority party from federal decision-making bodies in 1998, Montenegro has not recognized the authority of the Federal Assembly or associated institutions.

99. Within the framework of the Stability Pact, the government of Montenegro has undertaken initiatives to promote the rights of individuals belonging to national minorities and the rights of women. The Special Rapporteur welcomes these initiatives and urges that they be supported. Montenegro has seen a sudden increase in issue-oriented non-governmental organizations, and with the support of international and non-governmental organizations, these new groups are

developing civil society, challenging centralization of authority and promoting the rights of individuals.

100. Montenegro must still address the involuntary disappearances, killings and forced expulsions, mainly of Muslims, during the regional conflicts of 1991-1995. One individual alleged to have been involved in such crimes, Nebojsa Ranisavljevic, has been charged with crimes against civilians before the court of Bijelo Polje. He is accused of participation in the abduction on 27 February 1993 of 20 passengers from the Belgrade-Bar train when it stopped at Strpci station. The passengers were subsequently killed in Bosnia and Herzegovina. Mr. Ranisavljevic has been in pre-trial detention for over three years, awaiting the decision of a court of first instance. Only three court sessions have been scheduled during the entire period.

E. Kosovo, one year after the arrival of the Kosovo Force and the United Nations Mission

101. In June 2000, UNMIK and KFOR marked the first anniversary of the entry of KFOR into the province after the end of the bombing campaign by the North Atlantic Treaty Organization (NATO). The general situation of human rights for persons of Albanian ethnicity in Kosovo has improved during this period. However, the human rights situation of all communities in Kosovo continues to be a major concern of the Special Rapporteur. Dozens and perhaps hundreds of individuals have been killed since June 1999 on account of their ethnicity. Moreover, reports of Albanian-on-Albanian violence are increasing, including killings and harassment of political figures or their family members. The situation for the minority communities that make up approximately 10 per cent of Kosovo's current population (principally Serbs, but also including Roma, Turks and others) has deteriorated significantly and remains the major human rights concern in the province.

102. UNMIK continues to struggle to build new institutions for Kosovo, despite the efforts of its dedicated staff, that is of great concern to the Special Rapporteur. Of most concern has been its inability to establish the rule of law and (in conjunction with KFOR) to significantly reduce violence against minorities. Progress in keeping representatives of both the Kosovo Albanian and Serb communities involved in the governing structure has been difficult to achieve. This is reflected in the efforts of UNMIK to organize municipal elections for October. While it succeeded in registering many Kosovo Albanians, despite all its efforts UNMIK has been unable to convince Serbs and other minority group members to participate. Some 200,000 non-Albanians forced out of Kosovo may not vote, while leaders of the remaining Serb population have refused to allow Serbs to participate. The likelihood is that few, if any, minorities will be elected. In addition, there is growing violence and intimidation among Kosovo Albanian political actors. The Special Rapporteur is concerned whether free and fair elections can take place at all in Kosovo under present circumstances.

1. Freedom of movement

103. Lack of freedom of movement continues to affect all Kosovo communities, but it has a particularly devastating impact on minorities. Minority communities largely live in enclaves protected by KFOR, with almost no freedom of movement within Kosovo. Their access to relatives and friends outside of the enclaves, food sources, economic and educational opportunities, medical care and other services remains severely curtailed.

2. Violence

104. Violence against minorities continues to be a grave problem. UNHCR reported that approximately 500 persons were killed during the 12-month period from mid-June 1999, a disproportionate number of whom were ethnic minorities (mainly Serbs and Roma). Cases of attacks, arson or killings involving minorities continue to be reported on a regular basis. In June, for example, four Serbs were killed and three injured in explosions of mines placed on roads travelled mainly by Serbs, and two Serbs were shot and wounded on a street in the middle of Pristina.

105. Rioting in June in northern Kosovska Mitrovica, an area with a Serb majority, led to a week-long suspension of humanitarian activities by UNHCR and other agencies. Work resumed after Yugoslav Foreign Minister Zivadin Jovanovic and the Serb political leader in Mitrovica, Oliver Ivanovic, stated that those responsible for the violence would not be protected but brought to justice.

3. Rule of law and due process

106. The Special Rapporteur notes with particular concern the continued difficulties encountered by UNMIK in establishing rule of law. He underlines the critical role a functioning and fair judiciary can play in reducing tensions in the province. The rate of prosecutions for acts of violence committed against minorities remains low as systemic problems in the criminal justice system sustain a climate of impunity. Under-staffed and under-prepared courts have had great difficulty bringing cases to trial on a reasonable schedule, resulting in the extension of pre-trial detentions, long delays in trials for those indicted, and numerous postponements of trials once begun. UNMIK has sought to address these problems by appointing international prosecutors and judges, but as of July it was able to hire only 5 judges of the 12 and 2 of the 5 prosecutors it had hoped to hire.

4. Detention

107. Despite improvements in the physical conditions of detention, the Special Rapporteur remains concerned about the rights of those deprived of liberty in Kosovo. Representatives of the court rarely, if ever, visit detainees for whom they are responsible, and defence counsels often experience difficulties in gaining timely and private access to their clients. In addition, relatives are often unable to visit detained family members.

108. The Special Rapporteur is concerned about the implementation of UNMIK regulation 1999/26, which provides for the six-month limit on pre-trial detention established by the Federal Republic of Yugoslavia law to be extended for up to one year. The regulation was adopted in December 1999 in response to the delays encountered in establishing a new judiciary after the conflict. It does not specify when a detainee can be held for more than six months nor under what conditions the extension can be terminated; does not provide for appeal of the extension decision; and provides no review of the legality of the detention itself — all serious due process concerns. The Special Rapporteur recommends that UNMIK review this regulation urgently and bring it into conformity with international standards.

5. Freedom of expression

109. Freedom of expression concerns were raised in June when UNMIK summarily closed a daily newspaper for publishing articles allegedly inciting ethnic-related violence. The eight-day closure order followed the kidnapping and murder of an ethnic Serb United Nations staff member after the daily, *Dita*, had accused him of being a member of the Serb paramilitary during the recent conflict and published his address and family details. The Special Representative of the Secretary-General subsequently issued regulations 2000/36 and 2000/37 which give the UNMIK Temporary Media Commissioner broad authority over the news media. While the Special Rapporteur recognizes the need to regulate the press for reasons of public order and security, he shares the concern of many local and international observers over the broad scope, vague language, and lack of an adequate appeal process in the regulations as issued.

6. Concerns of women and children

110. The Special Rapporteur warmly commends the working groups, comprising representatives of UNMIK, the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM) and the United Nations Development Fund for Women (UNIFEM), that are drafting laws to combat domestic violence and trafficking in women and children. The IOM Zero Tolerance Campaign against trafficking of women in and out of Kosovo, launched on 24 May, is vital for protecting the rights of women and children in the region.

7. Human rights institutions

111. The Special Rapporteur commends the establishment by UNMIK in June 2000 of an ombudsperson's office. On 10 July Marek Nowicki was appointed Ombudsperson for a term of two years. The Special Rapporteur expresses his concern that KFOR was not directly included under the Ombudsperson's jurisdiction, particularly since KFOR engages in extensive policing duties, including the arrest, detention and questioning of criminal suspects.

8. Human rights and policy

112. The Special Rapporteur recognizes that UNMIK faces enormous challenges and obstacles in fulfilling its mandate to establish institutions, the rule of law, and the principles of tolerance and peaceful coexistence in Kosovo. One major obstacle is the failure of the international community to provide the

support needed to achieve the aims of Security Council resolution 1244 (1999) of 10 June 1999. Nonetheless, the Special Rapporteur suggests that UNMIK can do much more to incorporate human rights principles into its work, even with its present limited resources. He is concerned that human rights norms are often not considered in the ongoing crises involving minority communities and urges UNMIK fully to incorporate human rights norms and practices into the development of its regulations, the training and work of its field staff — particularly the police — and the shaping of legal reform.

F. Missing persons and persons deprived of liberty

113. The highly sensitive issue of missing persons and those deprived of liberty in connection with the Kosovo crisis remains a serious obstacle to the resolution of tensions in Kosovo. In June, the International Committee of the Red Cross (ICRC) published *The Book of the Missing*, listing 3,368 missing persons of all ethnicities. The Special Rapporteur urges all communities to cooperate in the effort to locate detainees and identify the fate of the missing. He commends the ongoing work of the Office of the High Commissioner for Human Rights, the Commission on Prisoners and Detainees, ICRC and other intergovernmental and non-governmental organizations to resolve these concerns on the basis of humanitarian and human rights principles.

G. Early warning: Presevo, Bujanovac, Medvedja

114. In his last report, the Special Rapporteur drew attention to growing incidents of violence in the southern Serbian municipalities of Presevo, Bujanovac and Medvedja. Violent incidents in the region are increasing, including armed attacks on police checkpoints, arbitrary detentions, beatings, disappearances, kidnappings, and other violence against Serb and Albanian civilians. The Special Rapporteur commends the work of the Bujanovac Council for Human Rights in reporting on and protecting the rights of all persons in the region. UNMIK and KFOR should strive to prevent all infiltrations of groups of armed extremists from Kosovo that seek to destabilize the region, and the Government of the Federal Republic of Yugoslavia should prevent its security forces from committing acts of repression against Albanian citizens.

H. Conclusions and recommendations

115. One year after the end of the NATO campaign, the international community has still not found a coherent Balkan policy. Many of the ideals of the Stability Pact remain to be translated into action; in the territory of much of the Federal Republic of Yugoslavia they have scarcely been implemented at all. Violent incidents in southern Serbia and Kosovo threaten the surrounding region. Tensions within Montenegro have not led to destabilization, but recent constitutional crises generated in Belgrade may be an indicator of things to come. Despite efforts by UNMIK and KFOR, violence and harassment against all populations in Kosovo continue with effective impunity. While the overall human rights situation for Kosovar Albanians has improved since the arrival of UNMIK and KFOR, in Kosovo no Serb, regardless of age or sex, is free from the threat of violence and harassment, including the omnipresent threat to life. So long as this situation prevails, the people of Kosovo — regardless of ethnicity — will be prevented from enjoying democracy.

116. International policy to address the lingering political, economic, security and social crises of the people of the Federal Republic of Yugoslavia has simply stagnated. Policy makers seem to be waiting, expecting a new crisis within Serbia proper, Montenegro, Kosovo, or in the surrounding region. Although it is widely believed that conditions do not exist for a free and fair electoral campaign, many policy makers nevertheless hold out the prospect of elections on the territory of the Federal Republic of Yugoslavia as a panacea — not because elections may be an expression of popular will or an exercise in democracy, but because they may serve as a social and political catharsis. There are no apparent international initiatives to defuse the anticipated next Balkan crisis, but only to contain it. In this context, the Special Rapporteur sadly expects that the situation of human rights will only worsen.

117. The Special Rapporteur recommends that the Government of the Federal Republic of Yugoslavia, the republican governments of Serbia and Montenegro, and the judicial bodies appointed by UNMIK rigorously

ensure the administration of justice in accordance with international standards of due process and fair trial.

118. The repression of the rights of political expression, freedom of association, independence of the media and related civil and political rights in the Federal Republic of Yugoslavia should cease immediately.

119. All authorities should pay particular attention to the social and economic rights of the most vulnerable sections of society, including the elderly, the disabled and children.

120. All authorities should expand, not restrict, the competence of local government bodies to take decisions locally on issues of concern to the local population, particularly minorities.

121. All authorities should ensure, particularly in areas with significant minority populations, that minorities are fairly represented in all government departments.

122. All communities should cooperate in the effort to identify the fate of the missing and to facilitate the release of all persons detained in connection with the recent crisis, other than those suspected of serious violations of international humanitarian law.

123. The Government of the Federal Republic of Yugoslavia should permit access by the Office of the High Commissioner for Human Rights and ICRC to all places of detention and to all persons detained by military forces. Similarly, all court proceedings, including those held in military courts, should be accessible to monitors.

124. The Government of the Federal Republic of Yugoslavia should prevent torture and ill-treatment of those in police custody, prisons and other detention facilities and bring perpetrators to justice. Wherever persons are detained on the territory of the Federal Republic of Yugoslavia, their rights according to international standards should be respected. All authorities, including UNMIK, should pay particular attention to the rights of detainees from the vulnerable sections of society, such as juveniles, the mentally disabled and women.

125. **The Government of Serbia should repeal the Law on Public Information.**

126. **The Government of Montenegro should expedite the proceeding against Nebojsa Ranisavljevic and make every effort to address all crimes against civilians** committed on the territory of Montenegro during the regional conflicts.

127. The international community should strengthen national capacity in Montenegro through human rights awareness programmes and assistance to specifically targeted beneficiaries.

128. Community leaders in Serbia proper and Kosovo should take concrete action to bring to an end the present cycle of violence and discrimination against minorities by condemning all attacks on minorities, mobilizing community support against such actions, identifying those responsible, encouraging witnesses to come forward, and suggesting ways to prevent recurring attacks and ensure freedom of movement for everyone in Kosovo and elsewhere in Serbia.

129. To overcome what one senior official called "an environment of tolerance for intolerance and revenge", it is recommended that UNMIK take all possible steps to ensure that the provisions of all applicable laws, including UNMIK regulations, comply with international human rights standards. UNMIK should also strive to incorporate human rights norms and practices into the training and work of its field staff — particularly the UNMIK and new Kosovo police — and into legal reforms.

130. UNMIK should seek urgently to expedite the appointment in Kosovo of the full contingent of planned international judges and prosecutors — especially the two planned international appointments to the Supreme Court — to help address serious problems with the judiciary. In the light of difficulties experienced in recruitment, UNMIK should consider appointing highly qualified international lawyers to fill the existing needs.

131. UNMIK should redouble its efforts to train legal professionals — judges, prosecutors and, particularly, defence attorneys — in the practical interpretation and application of international human rights law.

132. UNMIK should review regulation 1999/26 on the extension of periods of pre-trial detention in order to ensure its conformity with international standards. In particular, it is recommended that clear standards for extensions of detention be established and detainees given the right to appeal extension decisions and the legal basis for detention.

133. UNMIK should review regulations 2000/36 and 2000/37 on the media in order to ensure that they

conform to international human rights standards and practices governing the media while preventing the dissemination of hatred.

134. KFOR should review the regulations, training programmes, codes of conduct and operational procedures for its personnel to ensure that all KFOR members carry out their duties in accordance with international human rights standards, particularly when they are acting in a law enforcement capacity.

135. KFOR should take immediate steps to ensure that all individuals detained by KFOR are treated in accordance with international standards, and that KFOR officials comply with valid court orders relating to the status of detainees.

136. The KFOR Commander should agree to provide full cooperation to the new Kosovo Ombudsperson's office by establishing procedures to ensure that security personnel will adhere to human rights standards and be held accountable for any human rights violations they commit in Kosovo.

137. The international community should provide full financial and technical support for the Kosovo Ombudsperson's office, particularly as it recruits and trains staff and begins initial operation, which will determine its credibility as an independent institution capable of defending the rights of all communities in Kosovo.

138. Host States contemplating the return of refugees to Kosovo should ensure that each case is carefully and fairly evaluated in light of the potential risks faced after return, and should organize returns in a gradual manner in accordance with UNMIK and UNHCR recommendations, so that returns do not further jeopardize the economic and political stability of the region.

139. UNMIK, KFOR and all international organizations and States responsible for Kosovo should use all their energy and dedication to implement fully Security Council resolution 1244 (1999) and meet their commitments to provide all promised financial, personnel, police and judicial support necessary for UNMIK to carry out its responsibilities under that resolution.

140. Finally, the international community should end the sanctions and other forms of isolation of all the people of the Federal Republic of Yugoslavia.

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Human rights questions: human rights situations and reports of special rapporteurs and representatives

Situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the periodic report on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, submitted by Jiri Dienstbier, Special Rapporteur of the Commission on Human Rights, in accordance with Commission on Human Rights resolution 2000/26 of 18 April 2000 and Economic and Social Council decision 2000/257 of 28 July 2000.

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Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia

Contents

		Paragraphs	Page
I.	Introduction	1–2	4
II.	General observations	3–7	4
III.	Bosnia and Herzegovina	8–43	4
	A. General	9	5
	B. Return and property	10–16	5
	C. Economic and social rights	17–22	6
	D. Civil and political rights	23–28	6
	E. Trafficking and gender-based violence	29–31	7
	F. Human rights institutions	32–33	7
	G. Conclusions and recommendations	34–43	8
IV.	Republic of Croatia	44–71	8
	A. Returns and reconstruction	46–52	8
	B. War crimes	53–56	9
	C. Rights of minorities	57–58	10
	D. Missing persons	59	10
	E. Social and economic rights	60–62	10
	F. Gender issues	63–64	11
	G. Technical cooperation	65	11
	H. Conclusions and recommendations	66–71	11
V.	Federal Republic of Yugoslavia	72–140	12
	A. Relations with authorities	74–75	12
	B. General observations	76–77	12
	C. Crises in Serbia proper	78–96	13
	D. Challenges in Montenegro	97–100	15
	E. Kosovo, one year after the arrival of the Kosovo Force and the United Nations Mission	101–112	16

F. Missing persons and persons deprived of liberty 113 18
G. Early warning: Presevo, Bujanovac, Medvedja 114 18
H. Conclusions and recommendations 115–140 18

I. Introduction

1. This is the fifth comprehensive report on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia submitted by the Special Rapporteur of the Commission on Human Rights, Jiri Dienstbier. It considers human rights developments in the countries of the Special Rapporteur's mandate through mid-July 2000.

2. As they have year after year, the field officers of the Office of the United Nations High Commissioner for Human Rights provided invaluable support to the Special Rapporteur during the past year by providing him with information, facilitating his missions and analysing the human rights situation in the countries of his mandate. He wishes to express his deep appreciation to all of them, as well as to the Governments whose financial support has made the High Commissioner's field activities possible.

II. General observations

3. The Special Rapporteur emphasizes again his view that many of the problems in the countries of his mandate can best be addressed from a regional perspective. This is one of the main reasons for the establishment of the Stability Pact. The Special Rapporteur is concerned, however, that the Stability Pact has not yet succeeded in developing or implementing a strategic global programme for reconstruction and renewal in the Balkans which adds substantially to past attempts to address the situation in the region. Many issues are best addressed from a regional perspective, including the question of refugees and internally displaced persons, the development of civil society and democratic structures, good governance, and the problem of trafficking in human beings.

4. Concerning the return of refugees, difficulties may manifest themselves in different ways in different countries, and even within countries, but the human rights principles involved are fundamentally the same. The countries of the Special Rapporteur's mandate are bound by the same international agreements recognizing the right to return and the same international human rights treaties. This should facilitate interventions by the international community and local and international non-governmental organizations (NGOs). The main challenge is to analyse the legal frameworks relating to return (on such issues as citizenship, property, security, social welfare, education and employment) equally in all the countries of the region.

5. Similarly, a regional approach is useful to address the problem of trafficking in human beings. It has become apparent that trafficking for purposes of exploitative labour, particularly forced prostitution, is one of the most significant human rights concerns in the region. The related practice of the smuggling of migrants is also increasing. Research has shown that the origins of the problem lie in the economic conditions in some countries in the region (though not in the Special Rapporteur's mandate), including Romania, the Republic of Moldova, Ukraine, Bulgaria and the Russian Federation. Bosnia and Herzegovina and Kosovo in the Federal Republic of Yugoslavia are mainly places of destination for trafficked persons, while too little is known of the situation in Croatia to be certain of its place in the process.

6. It is of concern to the Special Rapporteur that none of the countries in the region has taken an approach which stresses the human rights of the victims of trafficking rather than treating them as illegal immigrants and criminals. In Bosnia and Herzegovina, the approach has only somewhat been modified as a result of the interventions of the international community.

7. The creation of a Task Force on Trafficking in Persons in the Stability Pact may yet lead to an organized and coherent approach to what has become one of the most serious issues of human rights concern in south-east Europe.

III. Bosnia and Herzegovina

8. The Special Rapporteur visited Bosnia and Herzegovina from 24 to 26 January and 11 to 15 June 2000. During his visits he met with representatives of civil society, the media, the judiciary and the opposition as well as government authorities. He also met with officials of international organizations, including the High Representative. This report is based on information gathered during his missions as well as by staff of the field office of the United Nations High

Commissioner for Human Rights in Bosnia and Herzegovina.

A. General

9. The current political environment, lack of functioning institutions and a complicated constitutional and legal framework continue to be impediments to any real change in Bosnia and Herzegovina. The Special Rapporteur notes, however, that there has been some improvement and there is more reason for optimism than a year ago. It appears, judging by the municipal elections held in April 2000, that non-nationalistic forces are gaining ground and civil society is increasingly strong. The Special Rapporteur welcomes the establishment of the State Border Service as well as the Ministry of Human Rights and Refugees within the Council of Ministers as signs of the strengthening of the State of Bosnia and Herzegovina. Recent progress made in Mostar, which the Special Rapporteur visited in June 2000, in unifying the structures of this divided city show that progress is possible with the passing of time and determined efforts by the international community.

B. Return and property

1. Right to return

10. Nearly five years after the war's end, over 1 million refugees and displaced persons are still waiting to return to their pre-war homes or for any other form of durable solution. The General Framework Agreement for Peace in Bosnia and Herzegovina (Dayton Agreement), signed in December 1995, guaranteed refugees and displaced persons the right to return to their pre-war homes in safety and with dignity. However, violations of the rights to return and to property remain by far the most pervasive of human rights violations in Bosnia and Herzegovina.

11. Obstacles range from lack of adequate security to delays in property law implementation and lack of reconstruction assistance. Although incidents of violence and harassment continue, the most intractable problem is the non-sustainability of return — returnees simply are not provided the basic necessities to survive. The solution to this can only be more effective respect for the social and economic rights of returnees, in particular the rights to housing, pensions, employment, education and health care.

12. According to a study by the Office of the United Nations High Commissioner for Refugees (UNHCR) of the situation of recent returnees, several areas of concern predominate. An extremely low percentage (3 per cent) of interviewees had secured employment since their return, while a correspondingly high percentage indicated re-employment to be their chief concern. Of interviewees who believed they were eligible for pensions, 34 per cent had been unable to secure them. Twenty-six per cent indicated they had poor access to electricity, telephones and/or water.

13. Specific obstacles facing displaced and returnee women were identified in another report prepared by UNHCR (in cooperation with the Office of the High Commissioner for Human Rights), issued in May 2000. It was found that women's fear of returning (whether or not justified) was often compounded by the lack of familial or community support, or by psychological trauma. The report recommended that serious efforts be made to ensure that vulnerable women are not forgotten, including with respect to the allocation of alternative accommodation or unclaimed apartments.

2. Right to property

14. On 27 October 1999, the High Representative, Wolfgang Petritsch, imposed amendments to the property laws, harmonizing the laws between the two entities. At the same time, he imposed laws enforcing decisions of the Commission for Real Property Claims of Displaced Persons and Refugees. This marked the beginning of a strong international push to ensure enforcement of citizens' rights to the repossession of their apartments, houses and other property — a necessary precondition for return.

15. The Special Rapporteur notes that owing to these actions and continuous international pressure, some progress has been observed. Almost every municipality has begun to implement the laws, even previously "hard-line" places. This progress was confirmed by recent UNHCR figures on registered minority returns. Between January and April 2000, 11,445 people returned to their homes in areas in which they now are minorities, which is roughly triple the number that returned last year during the same period. However, the process is still moving too slowly.

16. Until April, 211,850 claims for the return of apartments and private property had been submitted to domestic bodies in the whole of the country, according to official figures. However, only 23,801 claims had been successfully resolved. If the process continues at this pace, it will take 15 years to finish.

C. Economic and social rights

1. Employment rights

17. Discrimination in employment is a serious concern in Bosnia and Herzegovina which has a major impact on the sustainability of returns. The critical economic situation affects all groups of the population and should not serve to justify the existence of discrimination. Members of ethnic minorities and returnees in general are most vulnerable to exclusion from employment.

18. Laws prohibiting discrimination are a first step towards its prevention and elimination. The Federation Law on Labour Relations, adopted in 1999, contains a comprehensive anti-discrimination provision, while a reform of the Law on Labour Relations in the Republika Srpska is under way and should incorporate a similar article. Beyond these legal guarantees, however, more concrete and dissuasive measures must be encouraged and adopted to ensure the effective establishment of a fair employment policy throughout the country.

2. Right to education

19. The major problem in the education system is the effective division of the education system along ethnic lines. There have been several cases of physical segregation, where minority children have not been allowed to use school premises. Following direct intervention from the international community, some crises were solved; thus, the primary schools of Stolac and Vares are now shared by Croat and Bosniak returnee children. In many other areas, however, segregation continues.

20. Regarding textbooks and curricula, the Special Rapporteur notes that some progress has been made on the removal of offensive and discriminatory material from textbooks, but this needs to be followed by further steps to ensure that textbooks eventually meet European standards. The signing of the Declaration and Agreement on Education in May 2000 was a welcome step.

3. Right to the highest attainable standard of health

21. A number of factors negatively affect the health of the overall population in Bosnia and Herzegovina, impacting more severely on access to health care by vulnerable groups and the poor. Indeed, the current health system increases disparities since it is highly compartmentalized and replicates the constitutional divisions set out in the Dayton Agreement. Since there is no legal provision regarding coordination on health matters between the two entities, uneven distribution of medical care negatively affects the accessibility and cost of health services for all.

22. The fragmentation of the health system also hampers the collection and exchange of statistics, which in turn prevents the determination of efficient health policy. Funding for health insurance is also a concern. In the Federation, the health insurance law places most financing responsibilities with the cantons, but in practice, insurance funds do not have sufficient risk pools for the efficient provision of health care, so poorer cantons are exposed in a disproportionate way to unaffordable costs.

D. Civil and political rights

1. Right to life and security of person

23. Return-related incidents of violence have continued to be reported in some parts of the country. It is of serious concern that, with very few exceptions, there continues to be impunity, with perpetrators of attacks against returnees in most cases not identified, arrested or prosecuted.

24. The Special Rapporteur regrets to report that mine accidents have continued to take the lives of innocent victims, including children. At least 16 people were killed during spring and summer 2000. According to the Mine Action Centre, an estimated 1 million mines remain hidden in Bosnia and Herzegovina. Mine-clearance efforts need to be redoubled and sufficient funding allocated to mine-clearance activities, including education of children and returnees.

2. Rule of law and administration of justice

25. The basic picture of the entity police forces is unchanged. They remain overwhelmingly mono-ethnic, and continue to have unacceptably low numbers of female officers. The response of local police remains inadequate in many respects, most notably in investigations of return-related or ethnic violence as well as incidents of gender-based violence. Political interference in the work of police and the judiciary continues.

26. The United Nations Mission in Bosnia and Herzegovina (UNMIBH) undertook in late 1999 to register and authorize all law enforcement personnel in an effort to create transparency of the personnel exercising police powers. All police officers were registered and then subjected to background checks, and only those meeting the minimum requirements were authorized to exercise police powers. UNMIBH has also initiated several projects to ensure adequate minority representation in the police forces. Despite these efforts, however, progress has still been unsatisfactory.

3. War crimes and missing persons

27. The Special Rapporteur welcomes the continued apprehension by the Stabilization Force (SFOR) of indicted war criminals. It is also worth noting that the so-called "rules of the road" agreement, whereby no arrests on war crimes charges are to be carried out by national authorities before the International Tribunal for the former Yugoslavia has reviewed the file, has continued to be respected. The Special Rapporteur remains concerned at the lack of domestic prosecution of war crimes, as the Tribunal will not be able to deal with all perpetrators still at large in Bosnia and Herzegovina. However, measures will first have to be taken to ensure security for the courts and for witnesses, especially the victims of war crimes.

28. The Special Rapporteur would like to reiterate the need to clarify the fate of the almost 20,000 missing persons. He welcomes the impetus given to the identification of mortal remains by the United States of America in establishing laboratories for DNA testing. In addition, the protection of the economic and social rights of the families of missing persons needs to be given a higher priority, especially with regard to return and reintegration, health services and housing.

E. Trafficking and gender-based violence

29. It is of serious concern to the Special Rapporteur that Bosnia and Herzegovina has emerged as a significant destination point for women trafficked from Eastern Europe. There is growing evidence also that the country is serving for transit purposes and is becoming a country of origin.

30. In May 2000, UNMIBH and the Office of the High Commissioner for Human Rights released a joint report on trafficking in Bosnia and Herzegovina. The report explained the work of the international community to respond to the growing problem of trafficking. Between March 1999 and March 2000, 40 cases of trafficking or possible trafficking in persons, involving 182 women, were identified by UNMIBH. However, many other women in similar circumstances, who did not wish assistance, were also identified. According to the report, State authorities usually act to prosecute victims rather than to protect their rights. In legal proceedings, victims are often denied right to counsel and the services of a translator. In general, authorities do not appear fully to understand the complexities of the trade in human beings or its scope. However, there appears to be evidence that some law enforcement and other authorities wish to learn more about the issue.

31. Disturbing reports of police inaction in cases of domestic violence and sexual assault continued to be received by the United Nations International Police Task Force and local women's organizations. This highlights a lack of gender sensitivity and professionalism in law enforcement agencies.

F. Human rights institutions

32. The Special Rapporteur notes that there has been a trend towards greater implementation of decisions of the Human Rights Chamber and the Ombudsperson, although implementation rates are still little better than 50 per cent. Moreover, the entities have still not offered any assurance that the thousands of remaining property cases can be resolved within a reasonable time.

33. In April 2000, the first three Ombudsmen for the Republika Srpska were appointed following the adoption in February of a law establishing a multi-ethnic Ombudsman institution. The new institution will

investigate violations of human rights in the Republika Srpska and make recommendations for change.

G. Conclusions and recommendations

34. The Special Rapporteur strongly recommends an active and visible policy of mainstreaming a gender perspective into all policies and programmes, in particular regarding return, by international actors and local governments in order to assess the impact of decisions on women and men respectively.

35. While noting the need to continue to support minority returns, other durable solutions — such as local integration and settlement — will need to be found for those unable or unwilling to return.

36. The Special Rapporteur urges responsible authorities to immediately take measures to improve and accelerate the process of property-law implementation. The authorities also need to identify and create more alternative accommodation for those, often the most vulnerable, in need of it or entitled to it by law.

37. Officials and politicians should set an example by moving themselves out of other people's property which they occupy.

38. Republika Srpska authorities should, like the Federation authorities, adopt a law on labour relations introducing a comprehensive anti-discrimination provision. The authorities should ensure that discriminatory practices are severely sanctioned.

39. International assistance, particularly investments, should be subjected to the principle of conditionality upon verification of fair employment practices. A monitoring system should be established to check implementation of fair employment practices and to put pressure on employers who fail in their obligations.

40. In light of inequities in accessing health care, strategies should be elaborated to address the main problems by, inter alia, reviewing current health legislation as well as expenditures on health care. Adequate means should be found to ensure non-discrimination in policy and practice.

41. The Special Rapporteur calls on the authorities to implement the Declaration and Agreement on Education signed in May 2000.

42. The State must take responsibility for combating trafficking in persons, including by taking a rights-based approach which ensures that economic policies address the needs of potentially vulnerable groups.

43. There is a continuing need to train local and international police on human rights in general and on gender in particular.

IV. Republic of Croatia

44. The present report considers human rights developments in Croatia from March to early July 2000, paying special attention to the key issues of refugee returns, minority rights and war-crimes trials. It is based on information compiled from a variety of sources by the Office of the United Nations High Commissioner for Human Rights staff in Zagreb. The Special Rapporteur wishes to extend his appreciation, once again, to the authorities of the Republic of Croatia for their continuing cooperation with the High Commissioner's Office in Zagreb.

45. From 25 to 27 April, the Special Rapporteur conducted his fifth official visit to Croatia. He met with the President of the Republic, Stjepan Mesic, senior figures of the Government of Croatia, diplomats, and heads of international organizations. The Special Rapporteur wishes to express his satisfaction with recent political developments and with the political will for change shown by the Government as well as by President Mesic. He hopes that Croatia will not lose the momentum it has gained. The Government has moved quickly to establish cooperation with the Tribunal, but issues such as tenancy rights, property restitution, and reconstruction assistance are much more difficult to resolve, particularly at the local level.

A. Returns and reconstruction

46. According to international observers, some 6,000 Croatian Serb refugees, or roughly 1 per cent of the pre-war population, reportedly returned to Croatia in the first half of 2000 under the Government's Programme of Return. While the precise number of spontaneous returnees is difficult to determine — since many choose to return to their former homes and then leave after settling their affairs — the estimated combined figure for organized and spontaneous returns

for the first half of 2000 shows a three-fold increase over figures for the same period last year.

47. On 1 June, Parliament ratified amendments to the Law on Reconstruction, repealing discriminatory provisions against minorities and potentially allowing access to reconstruction assistance for all returnees, regardless of ethnicity. Nevertheless, the Special Rapporteur notes that the implementing instructions accompanying the Law, in fact, reinstate "priorities" that place returnee Serbs, once again, at the bottom of the list for reconstruction assistance.

48. On 14 July 2000, the Parliament adopted the law on amendments to the law on areas of special state concern. Included in the new law is a provision that property allocated for temporary use to (mostly Croat) refugees from Bosnia and Herzegovina should be returned within six months of the owner's request, with the temporary occupant to be relocated elsewhere. If this cannot be accomplished, the Government is obliged to sign a lease contract with the owner whose house is occupied. The Special Rapporteur believes that the adopted amendments bring some positive changes by enlarging the categories of beneficiaries to now include all members of the population who inhabited those areas before the war and extends its scope of application to the Danube region. The Special Rapporteur also commends the Croatian State for acknowledging, under this law, that all occupancy-rights holders who fled during the war are entitled to some measure of benefit. Nonetheless, the Special Rapporteur is concerned about the fact that this amendment fails to set up a final date for the restitution of the property to the owners, who are left in uncertainty as to the date of repossession, and the temporary occupant can de facto remain indefinitely in the property rented by the Government.

49. Despite the foregoing, the Special Rapporteur believes that progress on returns has still been slow. It is important that the Government take clear positions on the return issue and address them, particularly at the local level, to ensure that returns actually take place. This will not be easy, as local political structures are controlled mainly by the former ruling party and may remain in place at least until local elections in April 2001.

50. The Special Rapporteur is concerned over several incidents, such as the appearance in spring 2000 of posters in towns where returns were to occur listing the names of alleged Serb war criminals, which have a deterrent effect on returns. Hate speech and demonstrations instigated by extremist groups — such as protests in Gospic against the presence of an exhumation team from the Tribunal — are also major causes of fear and uncertainty.

51. The Special Rapporteur emphasizes again the importance of respecting property rights as a key to resolving the issue of returns. The Government should press forward with evictions of illegal occupants of Serb-owned houses while also ensuring the rights of these temporary occupants. Lack of progress in these cases is slowing down Serb refugee returns. The Special Rapporteur also believes that without better respect for property rights, there will be no foreign investment in Croatia.

52. In April, some 300 houses damaged during the 1991-1995 war were demolished in a predominantly Serb area of Gospic. These houses, which were abandoned and not up for reconstruction, had been assessed and recategorized as severely damaged and therefore hazardous to safety. After alleged warnings from the Public Health Service and the Building Inspectors, the county organized the demolition of these houses. However, the prefect of Gospic county admits that proper administrative procedures were not followed by local authorities. The owners of the demolished houses were not notified, either about the procedure or the date of demolition, or about entitlements to compensation or reconstruction assistance. It is important to establish proper procedures to avoid repeating this error during the demolition process in other parts of Croatia, such as in Lika-Senj county where some 600 houses were slated for destruction this year. The Deputy Prime Minister for social and political affairs, Zeljka Antunovic, promised that a list of names of the owners would be published post factum in the Official Gazette of the Republic of Croatia.

B. War crimes

53. War-crime prosecutions of ethnic Serbs are ongoing, and the Special Rapporteur again calls attention to the lack of fairness in most of these proceedings. Many prosecutions are based on group indictments which fail to specify individual criminal acts and often, individuals belonging to groups are tried in absentia. In a recent case in Vukovar, 22

individuals were under indictment but only one was present at trial. While individuals tried in absentia have a right to retrial, the practice of in absentia proceedings is troubling. The Office of the High Commissioner for Human Rights has observed that retrials may not be fair as it is often presumed that the defendant is guilty unless he or she can prove innocence. In the recent *Sodolovci case*, the judge in the retrial was the same judge who had earlier convicted the group in absentia. War-crime proceedings that violate basic fairness contribute to uncertainty in the Serb community and have a negative impact on the return process.

54. On a positive note, the recent acquittal of the five Serb defendants in the *Sodolovci case* (described in previous reports) was encouraging. The court clearly rejected the notion of collective responsibility of persons of Serb ethnicity for violations of international humanitarian law committed in Croatia during the 1991-1995 conflict. The decision could have far-reaching consequences as it may begin to ease concerns of Serb refugees who, until now, saw no guarantee of the right to a fair trial in domestic war-crime prosecutions.

55. In the ruling of the Osijek County Court on 7 July 2000, all members of the "Sodolovci group" were acquitted on the basis of insufficient evidence. Proceedings in the case had begun in 1994 and were severely criticized as violating international standards. The Supreme Court overturned the initial guilty verdicts and returned the case to the lower court, citing procedural irregularities and rejecting the notion of collective responsibility. The Court emphasized that the reasoning of the lower court had assumed a priori collective responsibility for war crimes by all participants in the armed rebellion, namely Serbs, for all crimes committed during the aggression, regardless of evidence of their personal responsibility.

56. In the retrial of Mirko Graorac, also reported previously, the defendant was pronounced guilty in June of war crimes committed against prisoners of war and civilians in 1992 while he was a commander at the Manjaca camp in Banja Luka, Bosnia and Herzegovina. Sentenced to 15 years' imprisonment, he will reportedly appeal. It will be recalled that Mr. Graorac was tried in 1996 and sentenced to 20 years' imprisonment in proceedings that were held to be unfair by international observers.

C. Rights of minorities

57. The Special Rapporteur notes the adoption by Parliament of laws dealing with the rights of minorities, including draft laws on minority languages and script and on education. Parliament has also adopted amendments to the draft constitutional law on the rights of minorities, affecting the right to political representation. While the first two laws are positive attempts to protect minority rights, the Special Rapporteur regards the third law — including its swift adoption — as cause for concern for taking away several basic privileges of the Serb community.

58. The Special Rapporteur notes that although Parliament adopted the law, it requested the Government to draft an integral constitutional law on minorities within six months, under the auspices of the Ministry of Justice and in consultation with the Council of Europe's Venice Commission.

D. Missing persons

59. The missing persons issue is a key factor in the peace and reconciliation process in Croatia and remains a pressing human rights concern. Much remains to be accomplished. For example, the Danube Subcommission on Missing Persons, constituted in 1999, is still not fully functional. Also, the Special Rapporteur notes that the Government Commission on Detained and Missing Persons has not, so far, shown any initiative either to put the names of Croatian citizens of Serb ethnicity — gone missing during the war, especially during and after 1995 army operations — on official Croatian lists of missing persons, or to assist in determining their fates.

E. Social and economic rights

60. The Special Rapporteur is deeply concerned over the difficult financial situation in Croatia. He notes the dire need for investment to improve the standard of respect for social and economic rights and to implement measures assisting vulnerable groups.

61. The Special Rapporteur notes the attempts by the Government to amend legislation to better protect the rights of workers.

62. Various sources indicate that the percentage of the unemployed in Croatia is between 18 and 20 per

cent, including some 4 per cent working in the shadow economy without social or economic rights. Reports indicate that there will be further unemployment owing to bankruptcies. Unemployment assistance is reportedly insufficient to protect the unemployed. Meanwhile, some 150,000 to 200,000 persons are working without regular payment of wages. The Special Rapporteur is concerned over the backlog of labour lawsuits in the courts, the majority of which concern unpaid wages.

F. Gender issues

63. The Special Rapporteur is pleased to note that his earlier recommendations in the area of gender are being implemented. Even though the number of women in the legislature increased substantially from 7 per cent last year to nearly 21 per cent in 2000, due consideration could also be given to including more of the broad pool of capable women professionals in Croatia in the country's public life, especially at the more senior levels.

64. The Special Rapporteur commends the initiative of the State Commission for Gender Equality Issues to introduce changes into legislation to better protect women and children, including with respect to domestic violence. He welcomes the Commission's efforts to promote gender issues on the country's public agenda and mainstream gender into Croatian society. The Special Rapporteur also welcomes Croatia's signing of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women.

G. Technical cooperation

65. Various ministries of the Government of Croatia have responded to the technical cooperation project of the Office of the High Commissioner for Human Rights with interest and initiative. Between March and June 2000, the Office organized a workshop on gender discrimination and violence against women for judges and prosecutors, in cooperation with the Ministry of Justice. It has also trained police officers, in cooperation with the Ministry of the Interior, and funded the translation into Croatian of the United Nations manual *Human Rights and Law Enforcement*. Together with the European Law Students Association, the Office organized two human rights round-table discussions in Zagreb. A second annual summer school for senior law students, organized by the Office was held from 17 to 28 July in Dubrovnik.

H. Conclusions and recommendations

66. Despite remarkable political changes this year, Croatia continues to fall short of meeting some of its human rights obligations. The Special Rapporteur calls upon the Government to address, as a matter of priority, the slow pace of return of internally displaced persons and refugees; the restitution of property; lack of respect for international standards of fairness in war-crimes proceedings; and delays in resolving the issue of missing persons.

67. The Special Rapporteur observes that the coming months will be crucial for Croatia to take advantage of the momentum which has already been gained and to facilitate the swift return, in safety and dignity, of all refugees and displaced persons to their homes.

68. The Special Rapporteur recommends the full use of the tripartite Croatian Economic and Social Council, comprising representatives of the Government, trade unions and employers, in legislation-making and implementation as well as in social dialogue. He recommends further revisions of labour and other legislation to improve the social and economic situation of the Croatian population, especially pensioners.

69. The Special Rapporteur reiterates his earlier calls for unbiased search criteria in resolving cases of missing persons. The fate of Croatian citizens of Serb ethnicity who went missing during the war should be treated with equal concern.

70. The Special Rapporteur would like to stress again that the emphasis in domestic war-crime prosecutions should be on bringing all perpetrators to justice, regardless of ethnicity. Future investigations and trials should take place with international participation, thus helping to ensure transparency and a process that reassures the Serb population that war-crime prosecutions transcend victor's justice. The Special Rapporteur also recommends that the practice of in absentia prosecutions be abolished.

71. The Special Rapporteur welcomes the signing in New York on 6 June 2000 of an agreement on cooperation between the Government and the High

Commissioner for Human Rights, setting out the legal status of the Office of the United Nations High Commissioner for Human Rights in Croatia. The Special Rapporteur also commends the excellent cooperation between the Government of the Republic of Croatia and the Office and the agreement between the Office and the City of Zagreb to establish a Human Rights Documentation Centre in premises provided by the Government in the centre of the city.

V. Federal Republic of Yugoslavia

72. Since submitting his last report to the General Assembly in November 1999 (A/54/396/Add.1-S/1999/1000/Add.7), the Special Rapporteur has conducted two additional missions, together with staff of the Office of the United Nations High Commissioner for Human Rights, to the Federal Republic of Yugoslavia, travelling to many localities throughout the country. He visited detainees under the jurisdiction of the Serbian Ministry of Justice in Pozarevac and others held by the United States contingent of the Kosovo Force (KFOR) at the Bondsteel base outside Urosevac/Ferizaj in Kosovo. During his last visit, the Special Rapporteur also met with many individuals who have personally been the subject of serious human rights violations.

73. The Special Rapporteur's findings for the period from October 1999 to March 2000 were reported to the Commission on Human Rights in April 2000 (E/CN.4/2000/39). The present report considers the situation of human rights from March to mid-July 2000. Given the pace of developments throughout the Federal Republic of Yugoslavia, it is possible that elements of this report will be superseded by events before the document is published. Therefore, simultaneously with the presentation of this report the Special Rapporteur will once again update the General Assembly on developments within the Federal Republic of Yugoslavia.

A. Relations with authorities

74. Since his appointment in 1998, the Special Rapporteur has enjoyed the cooperation of the Federal Ministry for Foreign Affairs in carrying out his visits to the Federal Republic of Yugoslavia. He also has benefited from the cooperation of the Serbian Ministry of Justice as well as municipal authorities in Serbia, including in Nis, Presevo and Bujanovac. In Montenegro, the Special Rapporteur wishes to acknowledge the cooperation of republican ministries and other bodies in Montenegro, including the Ministry of Foreign Affairs, the Ministry for Protection of National Minorities and the Ministry of Justice, as well as various municipal authorities.

75. The Special Rapporteur has carried out frequent missions to Pristina and elsewhere in Kosovo. Since the establishment of the United Nations Interim Administration Mission in Kosovo (UNMIK) he has enjoyed the cooperation of the Special Representative of the Secretary-General, Bernard Kouchner, as well as of KFOR, the Federal Republic of Yugoslavia Committee for Cooperation, and the leadership of local political parties. Municipal authorities in Kosovo, including in Dragash and Kosovska Mitrovica, have greatly assisted the work of the Special Rapporteur.

B. General observations

76. The Special Rapporteur notes that authorities in Belgrade, Podgorica and Pristina at present have little or no contact with each other. The three effective component parts of the Federal Republic of Yugoslavia are developing distinct systems of law and regulation as well as separate financial systems and foreign policies. Freedom of movement is so severely restricted that few individuals move from one component to another, except in flight as internally displaced persons. Other serious human rights concerns in the Federal Republic of Yugoslavia include violations of the right to personal security, widespread allegations of ill-treatment in custody, lack of due process, failure of the administration of justice, discrimination based on ethnic or national origin, and threats to freedom of expression, conscience and assembly. Killings and involuntary disappearances occur regularly, and the period covered by this report saw a proliferation of political assassinations throughout the territory of the Federal Republic of Yugoslavia.

77. The Special Rapporteur observes that groups vulnerable to violations of basic human rights now comprise the majority of the population of the Federal Republic of Yugoslavia. These include individuals belonging to national minorities, women, children, refugees, internally displaced persons, the elderly,

detainees, members of non-governmental organizations, persons who have refused to participate in military service, media representatives and persons associated with opposition views. Trafficking of persons — women, children, asylum-seekers — has also increased as a result of the long-standing regional human rights crisis.

C. Crises in Serbia proper

78. The Special Rapporteur observes that Serbia faces increasingly grave and violent violations of human rights and fundamental freedoms in the absence of rule of law and due process. Federal and republican authorities use the legal and judicial systems to legitimize political repression and criminalize opposition activity, civil society and the expression of dissent. Measures taken against lawyers and judges inhibit the rights to fair trial and due process. There is widespread lack of respect for the most basic rules of legal procedure and an increased manifestation of State terror.

1. Freedom of expression

79. Many political rallies have been held during the reporting period. In most instances the authorities did not intervene and demonstrations remained peaceful. However, the right of persons to associate freely to express opposition to the ruling parties has been seriously restricted. Throughout Serbia, opposition activists have been arrested, detained and threatened with prosecution. In many instances, allegations of ill-treatment at the hands of police and State Security have been reported.

80. The following political leaders have been detained, visited by police or summoned to court since March 2000: Nenad Canak, President of the League of Social Democrats of Vojvodina; Mile Isakov, President of the Vojvodina Democratic Reforms Party; Vuk Obradovic, President of the Social Democratic Party; Vladan Batic, President of the Democratic Christian Party of Serbia; Svetislav Basara, Vice-President of the Democratic Christian Party of Serbia; Veljimir Ilic, Mayor of Cacak and President of the New Serbia Party (sentenced in absentia in May to a five-month prison term); Milan St. Protic, Vice-President of New Serbia and coordinator of the Alliance for Changes (charged with libel by Deputy Serbian Prime Minister Milovan Bojic following the public reading of a mock indictment); Zoran Djindjic, President of the Democratic Party; Dragan Milovanovic, President of the Independent Trade Union; Riza Halimi, Mayor of Presevo (sentenced in March 2000 to a five-month prison term); Zoran Zivkovic, Mayor of Nis and Vice-President of the Democratic Party, faces charges before the military court in Nis and the civilian court of Bor. Of particular concern, on 15 June 2000 another attempt was made on the life of Serbian Renewal Movement President Vuk Draskovic. A week earlier, Serbian authorities had detained four of his bodyguards under the pretext that their weapon permits, issued in Montenegro, were not valid in Serbia. The bodyguards were still in detention at the time of the assassination attempt.

81. The Special Rapporteur also notes with concern the mass detention of opposition party members. For example, the Democratic Party reported that 75 members were detained for questioning by police between 16 and 29 May 2000 alone; the League of Social Democrats of Vojvodina reported 147 members detained by police since 1 March 2000; and the Serbian Renewal Movement reported 135 members detained in the first half of the year.

2. Freedom of association, personal security and due process

82. Mass arrests and detentions of civil sector actors began throughout the Republic of Serbia after events in Pozarevac in early May. On 2 May 2000, a legal practitioner and two activists of the organization Otpor were arrested after being brutally beaten by a group of persons, including an armed guard, associated with a local discotheque owned by Marko Milosevic, son of President Milosevic. Momcilo Veljkovic, Radojko Lukovic and legal practitioner Nebojsa Sokolovic were hospitalized in police custody. They were detained for more than six days before being heard and eventually released by an investigating magistrate. Mr. Veljkovic and Mr. Lukovic were then rearrested the same day on charges of attempted murder; Mr. Sokolovic remains at large. The investigating magistrate, Bosko Papovic, who opposed bringing charges against the three, resigned in protest and was formally relieved of duty by the Serbian Parliament. District public prosecutor Jovan Stanojevic also resigned in protest and was relieved of duty. The court then held that the detainees presented a danger to the public and remanded them to

continuing custody until 30 June 2000, when they were formally accused of attempted murder.

83. Throughout Serbia, more than 600 Otpor activists, including minors, have been detained and interrogated by police. Many have been arrested for distributing materials, putting up posters and similar "offences". The Special Rapporteur draws attention to the case of Vladimir Stojkovic, detained in Leskovac beyond the legal time limit. On 27 May 2000 he emerged from detention with injuries to his legs and head. An investigative order charges him with calling for overthrow by force of the highest organs of power ... with the intent of damaging the constitutionally determined State and social order.

84. On 9 June, the Federal Ministry of Justice denied Otpor's application to be entered in the registry of associations, public organizations and political organizations. An appeal of the decision was filed with the Supreme Court on 30 June.

85. Non-governmental organizations have been the target of searches, financial inspections and confiscations, often in violation of legal procedure. Among those subject to the sweep have been Women in Black, the Centre for Antiwar Action, the Helsinki Committee for Human Rights in Serbia, the Forum for Ethnic Relations (all in Belgrade); the Committee for Human Rights in Leskovac; and the Civic Initiatives Committee in Nis. Some members of non-governmental organizations have been called for "informative" talks and their apartments have been illegally searched. In some cases they have reportedly been physically ill-treated by State Security.

3. Freedom of expression

86. The Special Rapporteur expresses grave concern over increasing violations of freedom of expression. While the constitutionality of the Serbian Law on Public Information is being challenged before the Constitutional Court, the Law remains the authorities' instrument of choice to silence media. Fines totalling 30 million dinars have been imposed, mainly against print media, since its adoption.

87. The Special Rapporteur observes that the most recent campaign against freedom of expression increasingly uses force to deprive journalists of their liberty and media businesses of their property. It includes mass arrests of journalists. During the month of May alone, 37 journalists were arrested or detained by police throughout Serbia, many described beatings by police. In Pozarevac in early May, three journalists from the *Danas* newspaper were taken by police from apartments in the middle of the night; the Office of the High Commissioner for Human Rights intervened to locate and help release them from arbitrary detention. The Independent Association of Journalists of Serbia has issued three book-length reports on repression against the media in Serbia since the start of the year.

88. On 17 May 2000, the Government of the Republic of Serbia forcibly took over Belgrade radio and television Studio B. Republican authorities claimed that Studio B had been calling for the overthrow of the Government. Together with interruption of TV Pancevo broadcasts, the takeover of Studio B ended dissenting radio and television broadcasting in Belgrade.

89. In connection with the Pozarevac case, Kraljevo journalist Miroslav Filipovic was arrested on 8 May 2000. Accused of espionage by civilian authorities, Mr. Filipovic's case was turned over to the Military Court of Nis, which originally saw no grounds to extend his detention and released him on 12 May. Mr. Filipovic was again called before the Nis Military Court on 22 May on allegations of espionage and dissemination of false information and was remanded into custody for 30 days. Indicted under those charges on 14 June 2000, at this writing he remains in detention awaiting trial. All appeals for his release, including that of the Special Rapporteur, have so far been denied. The accusations carry a maximum sentence of 15 years.

90. Bankruptcy proceedings against ABC Produkt raise serious concerns regarding the dissemination of independent information in Serbia. ABC Produkt prints all major independent media in Serbia and has been repeatedly fined large amounts, but has always managed to pay them. On 26 June 2000, after freezing ABC Produkt's bank account, the Belgrade Higher Commercial Court ordered ABC Produkt to vacate its premises. Declaring ABC Produkt bankrupt could end independent written press in Serbia.

91. The Special Rapporteur observes that the campaign against freedom of expression also extends to writers. Criminal proceedings against author Boban Miletic for allegedly insulting the reputation of the President of the Federal Republic of Yugoslavia in a book of aphorisms several years ago ended with a guilty verdict in the district court of Zajecar and a prison term of five months.

4. Measures against lawyers and judges

92. At this writing, at least nine lawyers were being prosecuted before Serbian courts. Lawyers were among those detained and ill-treated in the mass arrests described above. Meanwhile, on 12 July the Serbian Parliament relieved 13 court officials, mostly judges, of duty. The officials, like three senior judges similarly relieved in December 1999, were noted for their independence and impartial application of law and procedure.

5. Right to due process

93. The rights to due process and to fair trial are seriously violated by all the proceedings described in this report. During a recent mission to the Federal Republic of Yugoslavia, the Special Rapporteur drew attention to the case of Vladimir Nikolic, whose case before the Belgrade district court on New Year's Eve 1999 contained numerous violations of due process, including the court's delivery of a guilty verdict on a charge that was neither brought nor tried.

94. In his previous reports, the Special Rapporteur has expressed grave concern over the unfounded arrest, ill-treatment, torture, arbitrary detention, denial of due process, and unfair trials of the thousands of Kosovo Albanians deprived of liberty as a result of the Kosovo crisis. The recent Djakovica/Gjakove trial indicates that Kosovo Albanians are still selected for harsh treatment. In Nis, 144 persons taken into custody last year went on mass trial. During nine days of hearings, a Serbian Ministry of the Interior official, Rade Vlahovic, testified that police had no warrants or orders to detain any specific person, but to detain all men of military age. Other prosecution witnesses stated that there were flaws in the evidence and that it was impossible to relate it to any specific individuals. Despite those admissions, and a total absence of evidence on the charges brought, guilty verdicts and sentences ranging from 7 to 13 years were pronounced against each of the accused.

95. In pronouncing sentence on all defendants, Judge Goran Petronijevic announced that the court deemed it "unnecessary" to establish individual responsibility for the alleged acts. The Special Rapporteur concurs with one defence attorney who concluded that the State detained, arrested, tried and sentenced the accused "only because they are Albanian".

6. Codification of practice

96. A draft law on terrorism was tabled before the Federal Assembly at the end of June 2000. Although since withdrawn for reconsideration, the legislation would legitimize treatment of any form of opposition and dissent as a threat to the constitutional order of the State. It includes an effective licence to kill, as acts committed by persons on purported grounds of preventing a terrorist act are explicitly not characterized as criminal. Moreover, all proceedings from the moment of detention are deemed a State secret.

D. Challenges in Montenegro

97. The Special Rapporteur notes that the Republic of Montenegro faces many problems typical of a society in the initial stage of transition to democracy and a market economy. Although human rights and fundamental freedoms are generally respected, lack of knowledge of some international standards, corruption, red tape and some traditional factors impede the efforts of Montenegrin authorities to bring human rights observance in line with international standards.

98. The genuine political will and determination of Montenegrin authorities to sustain a multi-party, multi-ethnic and market-oriented democracy should be encouraged by the international community. International response and assistance to those efforts are already visible but still insufficient. The difficult environment in which they take place should be taken into account: the deepening constitutional crisis in the Federal Republic of Yugoslavia, tensions between Podgorica and Belgrade, and the activity of the Second Army on the territory of Montenegro. Since Belgrade excluded representatives of Montenegro's elected majority party from federal decision-making bodies in 1998, Montenegro has not recognized the authority of the Federal Assembly or associated institutions.

99. Within the framework of the Stability Pact, the government of Montenegro has undertaken initiatives to promote the rights of individuals belonging to national minorities and the rights of women. The Special Rapporteur welcomes these initiatives and urges that they be supported. Montenegro has seen a sudden increase in issue-oriented non-governmental organizations, and with the support of international and non-governmental organizations, these new groups are

developing civil society, challenging centralization of authority and promoting the rights of individuals.

100. Montenegro must still address the involuntary disappearances, killings and forced expulsions, mainly of Muslims, during the regional conflicts of 1991-1995. One individual alleged to have been involved in such crimes, Nebojsa Ranisavljevic, has been charged with crimes against civilians before the court of Bijelo Polje. He is accused of participation in the abduction on 27 February 1993 of 20 passengers from the Belgrade-Bar train when it stopped at Strpci station. The passengers were subsequently killed in Bosnia and Herzegovina. Mr. Ranisavljevic has been in pre-trial detention for over three years, awaiting the decision of a court of first instance. Only three court sessions have been scheduled during the entire period.

E. Kosovo, one year after the arrival of the Kosovo Force and the United Nations Mission

101. In June 2000, UNMIK and KFOR marked the first anniversary of the entry of KFOR into the province after the end of the bombing campaign by the North Atlantic Treaty Organization (NATO). The general situation of human rights for persons of Albanian ethnicity in Kosovo has improved during this period. However, the human rights situation of all communities in Kosovo continues to be a major concern of the Special Rapporteur. Dozens and perhaps hundreds of individuals have been killed since June 1999 on account of their ethnicity. Moreover, reports of Albanian-on-Albanian violence are increasing, including killings and harassment of political figures or their family members. The situation for the minority communities that make up approximately 10 per cent of Kosovo's current population (principally Serbs, but also including Roma, Turks and others) has deteriorated significantly and remains the major human rights concern in the province.

102. UNMIK continues to struggle to build new institutions for Kosovo, despite the efforts of its dedicated staff, that is of great concern to the Special Rapporteur. Of most concern has been its inability to establish the rule of law and (in conjunction with KFOR) to significantly reduce violence against minorities. Progress in keeping representatives of both the Kosovo Albanian and Serb communities involved in the governing structure has been difficult to achieve. This is reflected in the efforts of UNMIK to organize municipal elections for October. While it succeeded in registering many Kosovo Albanians, despite all its efforts UNMIK has been unable to convince Serbs and other minority group members to participate. Some 200,000 non-Albanians forced out of Kosovo may not vote, while leaders of the remaining Serb population have refused to allow Serbs to participate. The likelihood is that few, if any, minorities will be elected. In addition, there is growing violence and intimidation among Kosovo Albanian political actors. The Special Rapporteur is concerned whether free and fair elections can take place at all in Kosovo under present circumstances.

1. Freedom of movement

103. Lack of freedom of movement continues to affect all Kosovo communities, but it has a particularly devastating impact on minorities. Minority communities largely live in enclaves protected by KFOR, with almost no freedom of movement within Kosovo. Their access to relatives and friends outside of the enclaves, food sources, economic and educational opportunities, medical care and other services remains severely curtailed.

2. Violence

104. Violence against minorities continues to be a grave problem. UNHCR reported that approximately 500 persons were killed during the 12-month period from mid-June 1999, a disproportionate number of whom were ethnic minorities (mainly Serbs and Roma). Cases of attacks, arson or killings involving minorities continue to be reported on a regular basis. In June, for example, four Serbs were killed and three injured in explosions of mines placed on roads travelled mainly by Serbs, and two Serbs were shot and wounded on a street in the middle of Pristina.

105. Rioting in June in northern Kosovska Mitrovica, an area with a Serb majority, led to a week-long suspension of humanitarian activities by UNHCR and other agencies. Work resumed after Yugoslav Foreign Minister Zivadin Jovanovic and the Serb political leader in Mitrovica, Oliver Ivanovic, stated that those responsible for the violence would not be protected but brought to justice.

3. Rule of law and due process

106. The Special Rapporteur notes with particular concern the continued difficulties encountered by UNMIK in establishing rule of law. He underlines the critical role a functioning and fair judiciary can play in reducing tensions in the province. The rate of prosecutions for acts of violence committed against minorities remains low as systemic problems in the criminal justice system sustain a climate of impunity. Under-staffed and under-prepared courts have had great difficulty bringing cases to trial on a reasonable schedule, resulting in the extension of pre-trial detentions, long delays in trials for those indicted, and numerous postponements of trials once begun. UNMIK has sought to address these problems by appointing international prosecutors and judges, but as of July it was able to hire only 5 judges of the 12 and 2 of the 5 prosecutors it had hoped to hire.

4. Detention

107. Despite improvements in the physical conditions of detention, the Special Rapporteur remains concerned about the rights of those deprived of liberty in Kosovo. Representatives of the court rarely, if ever, visit detainees for whom they are responsible, and defence counsels often experience difficulties in gaining timely and private access to their clients. In addition, relatives are often unable to visit detained family members.

108. The Special Rapporteur is concerned about the implementation of UNMIK regulation 1999/26, which provides for the six-month limit on pre-trial detention established by the Federal Republic of Yugoslavia law to be extended for up to one year. The regulation was adopted in December 1999 in response to the delays encountered in establishing a new judiciary after the conflict. It does not specify when a detainee can be held for more than six months nor under what conditions the extension can be terminated; does not provide for appeal of the extension decision; and provides no review of the legality of the detention itself — all serious due process concerns. The Special Rapporteur recommends that UNMIK review this regulation urgently and bring it into conformity with international standards.

5. Freedom of expression

109. Freedom of expression concerns were raised in June when UNMIK summarily closed a daily newspaper for publishing articles allegedly inciting ethnic-related violence. The eight-day closure order followed the kidnapping and murder of an ethnic Serb United Nations staff member after the daily, *Dita*, had accused him of being a member of the Serb paramilitary during the recent conflict and published his address and family details. The Special Representative of the Secretary-General subsequently issued regulations 2000/36 and 2000/37 which give the UNMIK Temporary Media Commissioner broad authority over the news media. While the Special Rapporteur recognizes the need to regulate the press for reasons of public order and security, he shares the concern of many local and international observers over the broad scope, vague language, and lack of an adequate appeal process in the regulations as issued.

6. Concerns of women and children

110. The Special Rapporteur warmly commends the working groups, comprising representatives of UNMIK, the Organization for Security and Cooperation in Europe (OSCE), the International Organization for Migration (IOM) and the United Nations Development Fund for Women (UNIFEM), that are drafting laws to combat domestic violence and trafficking in women and children. The IOM *Zero* Tolerance Campaign against trafficking of women in and out of Kosovo, launched on 24 May, is vital for protecting the rights of women and children in the region.

7. Human rights institutions

111. The Special Rapporteur commends the establishment by UNMIK in June 2000 of an ombudsperson's office. On 10 July Marek Nowicki was appointed Ombudsperson for a term of two years. The Special Rapporteur expresses his concern that KFOR was not directly included under the Ombudsperson's jurisdiction, particularly since KFOR engages in extensive policing duties, including the arrest, detention and questioning of criminal suspects.

8. Human rights and policy

112. The Special Rapporteur recognizes that UNMIK faces enormous challenges and obstacles in fulfilling its mandate to establish institutions, the rule of law, and the principles of tolerance and peaceful coexistence in Kosovo. One major obstacle is the failure of the international community to provide the

support needed to achieve the aims of Security Council resolution 1244 (1999) of 10 June 1999. Nonetheless, the Special Rapporteur suggests that UNMIK can do much more to incorporate human rights principles into its work, even with its present limited resources. He is concerned that human rights norms are often not considered in the ongoing crises involving minority communities and urges UNMIK fully to incorporate human rights norms and practices into the development of its regulations, the training and work of its field staff — particularly the police — and the shaping of legal reform.

F. Missing persons and persons deprived of liberty

113. The highly sensitive issue of missing persons and those deprived of liberty in connection with the Kosovo crisis remains a serious obstacle to the resolution of tensions in Kosovo. In June, the International Committee of the Red Cross (ICRC) published *The Book of the Missing*, listing 3,368 missing persons of all ethnicities. The Special Rapporteur urges all communities to cooperate in the effort to locate detainees and identify the fate of the missing. He commends the ongoing work of the Office of the High Commissioner for Human Rights, the Commission on Prisoners and Detainees, ICRC and other intergovernmental and non-governmental organizations to resolve these concerns on the basis of humanitarian and human rights principles.

G. Early warning: Presevo, Bujanovac, Medvedja

114. In his last report, the Special Rapporteur drew attention to growing incidents of violence in the southern Serbian municipalities of Presevo, Bujanovac and Medvedja. Violent incidents in the region are increasing, including armed attacks on police checkpoints, arbitrary detentions, beatings, disappearances, kidnappings, and other violence against Serb and Albanian civilians. The Special Rapporteur commends the work of the Bujanovac Council for Human Rights in reporting on and protecting the rights of all persons in the region. UNMIK and KFOR should strive to prevent all infiltrations of groups of armed extremists from Kosovo that seek to destabilize the region, and the Government of the Federal Republic of Yugoslavia should prevent its security forces from committing acts of repression against Albanian citizens.

H. Conclusions and recommendations

115. One year after the end of the NATO campaign, the international community has still not found a coherent Balkan policy. Many of the ideals of the Stability Pact remain to be translated into action; in the territory of much of the Federal Republic of Yugoslavia they have scarcely been implemented at all. Violent incidents in southern Serbia and Kosovo threaten the surrounding region. Tensions within Montenegro have not led to destabilization, but recent constitutional crises generated in Belgrade may be an indicator of things to come. Despite efforts by UNMIK and KFOR, violence and harassment against all populations in Kosovo continue with effective impunity. While the overall human rights situation for Kosovar Albanians has improved since the arrival of UNMIK and KFOR, in Kosovo no Serb, regardless of age or sex, is free from the threat of violence and harassment, including the omnipresent threat to life. So long as this situation prevails, the people of Kosovo — regardless of ethnicity — will be prevented from enjoying democracy.

116. International policy to address the lingering political, economic, security and social crises of the people of the Federal Republic of Yugoslavia has simply stagnated. Policy makers seem to be waiting, expecting a new crisis within Serbia proper, Montenegro, Kosovo, or in the surrounding region. Although it is widely believed that conditions do not exist for a free and fair electoral campaign, many policy makers nevertheless hold out the prospect of elections on the territory of the Federal Republic of Yugoslavia as a panacea — not because elections may be an expression of popular will or an exercise in democracy, but because they may serve as a social and political catharsis. There are no apparent international initiatives to defuse the anticipated next Balkan crisis, but only to contain it. In this context, the Special Rapporteur sadly expects that the situation of human rights will only worsen.

117. The Special Rapporteur recommends that the Government of the Federal Republic of Yugoslavia, the republican governments of Serbia and Montenegro, and the judicial bodies appointed by UNMIK rigorously

ensure the administration of justice in accordance with international standards of due process and fair trial.

118. The repression of the rights of political expression, freedom of association, independence of the media and related civil and political rights in the Federal Republic of Yugoslavia should cease immediately.

119. All authorities should pay particular attention to the social and economic rights of the most vulnerable sections of society, including the elderly, the disabled and children.

120. All authorities should expand, not restrict, the competence of local government bodies to make decisions locally on issues of concern to the local population, particularly minorities.

121. All authorities should ensure, particularly in areas with significant minority populations, that minorities are fairly represented in all government departments.

122. All communities should cooperate in the effort to identify the fate of the missing and to facilitate the release of all persons detained in connection with the recent crisis other than those suspected of serious violations of international humanitarian law.

123. The Government of the Federal Republic of Yugoslavia should permit access by the Office of the High Commissioner for Human Rights and ICRC to all places of detention and to all persons detained by military forces. Similarly, all court proceedings, including those held in military courts, should be accessible to monitors.

124. The Government of the Federal Republic of Yugoslavia should prevent torture and ill-treatment of those in police custody, prisons and other detention facilities and bring perpetrators to justice. Wherever persons are detained on the territory of the Federal Republic of Yugoslavia, their rights according to international standards should be respected. All authorities, including UNMIK, should pay particular attention to the rights of detainees from the vulnerable sections of society, such as juveniles, the mentally disabled and women.

125. The Government of Serbia should repeal the Law on Public Information.

126. The Government of Montenegro should expedite the proceedings against Nebojsa Ranisavljevic and make every effort to address all crimes against civilians committed on the territory of Montenegro during the regional conflicts.

127. The international community should strengthen national capacity in Montenegro through human rights awareness programmes and assistance to specifically targeted beneficiaries.

128. Community leaders in Serbia proper and Kosovo should take concrete action to bring to an end the present cycle of violence and discrimination against minorities by condemning all attacks on minorities, mobilizing community support against such actions, identifying those responsible, encouraging witnesses to come forward, and suggesting ways to prevent recurring attacks and ensure freedom of movement for everyone in Kosovo and elsewhere in Serbia.

129. To overcome what one senior official called "an environment of tolerance for intolerance and revenge", it is recommended that UNMIK take all possible steps to ensure that the provisions of all applicable laws, including UNMIK regulations, comply with international human rights standards. UNMIK should also strive to incorporate human rights norms and practices into the training and work of its field staff — particularly the UNMIK and new Kosovo police — and into legal reforms.

130. UNMIK should take urgently to expedite the appointment to Kosovo of the full contingent of planned international judges and prosecutors — especially the two planned international appointments to the Supreme Court — to help address serious problems with the judiciary. In the light of difficulties experienced in recruitment, UNMIK should consider appointing highly qualified international lawyers to fill the existing needs.

131. UNMIK should redouble its efforts to train legal professionals — judges, prosecutors and, particularly, defence attorneys — in the practical interpretation and application of international human rights law.

132. UNMIK should review regulation 1999/26 on the extension of periods of pre-trial detention in order to ensure its conformity with international standards. In particular, it is recommended that clear standards for extensions of detention be established and detainees given the right to appeal extension decisions and the legal basis for detention.

133. UNMIK should review regulations 2000/36 and 2000/37 on the media in order to ensure that they

conform to international human rights standards and practices governing the media while preventing the dissemination of hatred.

134. KFOR should review the regulations, training programmes, codes of conduct and operational procedures for its personnel to ensure that all KFOR members carry out their duties in accordance with international human rights standards, particularly when they are acting in a law enforcement capacity.

135. KFOR should take immediate steps to ensure that all individuals detained by KFOR are treated in accordance with international standards, and that KFOR officials comply with valid court orders relating to the status of detainees.

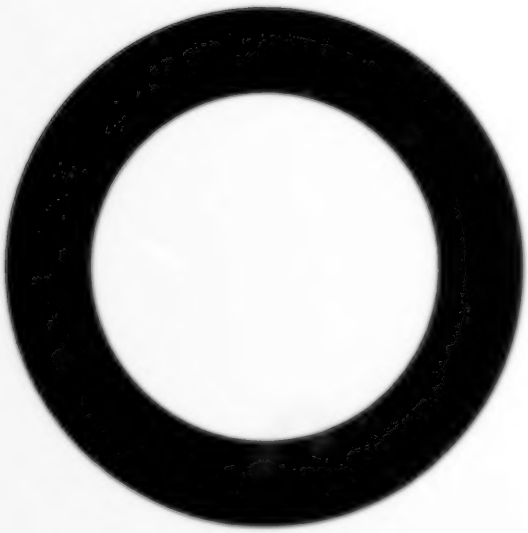
136. The KFOR Commander should agree to provide full cooperation to the new Kosovo Ombudsperson's office by establishing procedures to ensure that security personnel will adhere to human rights standards and be held accountable for any human rights violations they commit in Kosovo.

137. The international community should provide full financial and technical support for the Kosovo Ombudsperson's office, particularly as it recruits and trains staff and begins initial operations which will determine its credibility as an independent institution capable of defending the rights of all communities in Kosovo.

138. Host States contemplating the return of refugees to Kosovo should ensure that each case is carefully and fairly evaluated in light of the potential risks faced after return, and should organize returns in a gradual manner in accordance with UNMIK and UNHCR recommendations, so that returns do not further jeopardize the economic and political stability of the region.

139. UNMIK, KFOR and all international organizations and States responsible for Kosovo should use all their energy and dedication to implement fully Security Council resolution 1244 (1999) and meet their commitments to provide all promised financial, personnel, police and judicial support necessary for UNMIK to carry out its responsibilities under that resolution.

140. Finally, the international community should end the sanctions and other forms of isolation of all the people of the Federal Republic of Yugoslavia.



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Note by the Secretary-General

Corrigendum

Document A/55/282-S/2000/788 is hereby withdrawn.

For the report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Bosnia and Herzegovina, the Republic of Croatia and the Federal Republic of Yugoslavia, see document A/55/282.

* A/55/190 and Corr.1 and 2.

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